

**RESPONSIBLE DOMESTIC RE-
SOURCE DEVELOPMENT AND
ECONOMIC STABILITY—THE
ROLE OF THE HARD ROCK
MINING INDUSTRY**

OVERSIGHT FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND
MINERAL RESOURCES

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

Monday, September 29, 2003, in Reno, Nevada

Serial No. 108-62

Printed for the use of the Committee on Resources



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>

or

Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

89-583 PS

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON RESOURCES

RICHARD W. POMBO, California, *Chairman*
NICK J. RAHALL II, West Virginia, *Ranking Democrat Member*

Don Young, Alaska	Dale E. Kildee, Michigan
W.J. "Billy" Tauzin, Louisiana	Eni F.H. Faleomavaega, American Samoa
Jim Saxton, New Jersey	Neil Abercrombie, Hawaii
Elton Gallegly, California	Solomon P. Ortiz, Texas
John J. Duncan, Jr., Tennessee	Frank Pallone, Jr., New Jersey
Wayne T. Gilchrest, Maryland	Calvin M. Dooley, California
Ken Calvert, California	Donna M. Christensen, Virgin Islands
Scott McInnis, Colorado	Ron Kind, Wisconsin
Barbara Cubin, Wyoming	Jay Inslee, Washington
George Radanovich, California	Grace F. Napolitano, California
Walter B. Jones, Jr., North Carolina	Tom Udall, New Mexico
Chris Cannon, Utah	Mark Udall, Colorado
John E. Peterson, Pennsylvania	Anibal Acevedo-Vilá, Puerto Rico
Jim Gibbons, Nevada,	Brad Carson, Oklahoma
<i>Vice Chairman</i>	Raúl M. Grijalva, Arizona
Mark E. Souder, Indiana	Dennis A. Cardoza, California
Greg Walden, Oregon	Madeleine Z. Bordallo, Guam
Thomas G. Tancredo, Colorado	George Miller, California
J.D. Hayworth, Arizona	Edward J. Markey, Massachusetts
Tom Osborne, Nebraska	Rubén Hinojosa, Texas
Jeff Flake, Arizona	Ciro D. Rodriguez, Texas
Dennis R. Rehberg, Montana	Joe Baca, California
Rick Renzi, Arizona	Betty McCollum, Minnesota
Tom Cole, Oklahoma	
Stevan Pearce, New Mexico	
Rob Bishop, Utah	
Devin Nunes, California	
Randy Neugebauer, Texas	

Steven J. Ding, *Chief of Staff*
Lisa Pittman, *Chief Counsel*
James H. Zoia, *Democrat Staff Director*
Jeffrey P. Petrich, *Democrat Chief Counsel*

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

BARBARA CUBIN, Wyoming, *Chairman*
RON KIND, Wisconsin, *Ranking Democrat Member*

W.J. "Billy" Tauzin, Louisiana	Eni F.H. Faleomavaega, American Samoa
Chris Cannon, Utah	Solomon P. Ortiz, Texas
Jim Gibbons, Nevada	Grace F. Napolitano, California
Mark E. Souder, Indiana	Tom Udall, New Mexico
Dennis R. Rehberg, Montana	Brad Carson, Oklahoma
Tom Cole, Oklahoma	Edward J. Markey, Massachusetts
Stevan Pearce, New Mexico	VACANCY
Rob Bishop, Utah	VACANCY
Devin Nunes, California	Nick J. Rahall II, West Virginia, <i>ex officio</i>
Randy Neugebauer, Texas	
Richard W. Pombo, California, <i>ex officio</i>	

C O N T E N T S

Hearing held on Monday, September 29, 2003	Page 1
Statement of Members:	
Cannon, Hon. Chris, a Representative in Congress from the State of Utah	6
Faleomavaega, Hon. Eni F.H., a Delegate in Congress from American Samoa	3
Gibbons, Hon. Jim, a Representative in Congress from the State of Nevada	4
Pombo, Hon. Richard W., a Representative in Congress from the State of California	1
Prepared statement of	2
Statement of Witnesses:	
Abbey, Bob, Nevada State Director, Bureau of Land Management, U.S. Department of the Interior	7
Prepared statement of	10
Chavis, James A., Vice President, U.S. Government Relations, Placer Dome America	37
Prepared statement of	39
Coyner, Alan R., Commission on Mineral Resources, State of Nevada	20
Prepared statement of	21
Dobra, Dr. John, Director, Natural Resources Industry Institute, University of Nevada, Reno	23
Prepared statement of	24
Fields, Russ, President, Nevada Mining Association	33
Prepared statement of	35
Taylor, Dr. Tony P., President and CEO, Millennium Mining Corporation	43
Prepared statement of	44

**OVERSIGHT HEARING ON “RESPONSIBLE
DOMESTIC RESOURCE DEVELOPMENT AND
ECONOMIC STABILITY—THE ROLE OF THE
HARD ROCK MINING INDUSTRY”**

**Monday, September 29, 2003
U.S. House of Representatives
Subcommittee on Energy and Mineral Resources
Committee on Resources
Reno, Nevada**

The Subcommittee met, pursuant to call, at 11 a.m., Washoe County Commission Chambers, 1001 East Ninth Street, Reno, Nevada, Hon. Richard Pombo presiding.

Members Present: Representatives Pombo, Cannon, Gibbons, and Faleomavaega.

Mr. POMBO. The Oversight Hearing by the Subcommittee on Energy and Mineral Resources will come to order. This Committee is meeting today to hear testimony on Responsible Domestic Resource Development and Economic Stability, the Role of the Hard Rock Mining Industry.

And as we begin, I would like to recognize the Vice Chairman of the Full Committee and the host of our field hearing today, Congressman Jim Gibbons.

Mr. GIBBONS. Thank you very much, Mr. Chairman, and before we get to opening remarks, I would like to introduce a Boy Scout Troop today, that's the Boy Scouts of the Nevada Area Council. It's a mixture of several troops, that they're going to come down here and help lead us in the Pledge of Allegiance.

So, gentlemen, if you will come down.

BOY SCOUT. Please place your right hands over your heart. Bugler sound off.

[Whereupon a bugler played.]

BOY SCOUT. Ladies and gentlemen, please join me in the Pledge of Allegiance.

[Whereupon the Pledge of Allegiance was recited.]

BOY SCOUT. Ladies and gentlemen, you may be seated.

STATEMENT OF THE HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. POMBO. I want to thank our Boy Scouts for leading us in the Pledge this morning.

We are holding this hearing today to discuss the important role the domestic mining industry plays in our Nation's economic and national security. It is particularly important to hold this hearing in Nevada, the Nation's leading producer of hard rock minerals.

Hernando DeSoto, the author of the "Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else," attributes the West's success to the development of property rights laws in Western Europe and the United States over the past 200 years. These laws came from the ground up, a true grassroots effort that brought about significant change in how capital grows, creating tremendous prosperity in the vibrant market economies the West enjoys.

One of the two examples he uses from the United States is what he describes as this premier mining law of 1872. The law came directly from lode mining regulations from the Grass Valley Mining District, in my home State of California, in the gold mining mountain district here in Nevada.

The mining law, a land tenure law, provides the security of title to mining companies so that investors have confidence in providing the capital needed to develop the mine projects.

During the 1990s, Congress passed a moratorium on mineral patents, the process that allows miners to purchase the surface rights to claims, and the Department of Interior issued new mining regulations in the Millsite Opinion. The Millsite Opinion reversed 125 years of practice, instilling uncertainty into the operating plans for new projects and mining expansions.

With the security of tenure in jeopardy, coupled with permitting uncertainties and lawsuits brought by environmental groups, the U.S. Has lost its market share of the exploration dollars to other companies.

This morning we will examine solutions to these problems facing the domestic mining industry. I look forward to hearing from our witnesses here today.

[The prepared statement of Mr. Pombo follows:]

**Statement of The Honorable Richard Pombo, Chairman,
Committee on Resources**

We are holding this hearing today to discuss the important role the domestic mining industry plays in our Nation's economic and national security. It is particularly important to hold this hearing in Nevada, the Nation's leading producer of hardrock minerals.

Hernando de Soto, the author of "The Mystery of Capital, Why Capitalism Triumphs in the West and Fails Everywhere Else" attributes the West's success to the development of property rights laws in Western Europe and the United States over the past 200 years.

These laws came from the ground up, a true grassroots effort that brought about significant change in how capital grows creating tremendous prosperity and the vibrant market economies the West enjoys.

One of two examples he uses from the United States is what he describes as "...this premier mining law" of 1872. The law came directly from the Grass Valley Mining District in my home state of California and the Gold Mountain Mining District here in Nevada.

The mining law, a land tenure law, provides the security of title to mining companies so that investors have confidence in providing the capital needed to develop the mine projects.

During the 1990's Congress passed a moratorium on mineral patents, the process that allows miners to purchase the surface rights to claims, and the Department of Interior issued new mining regulations and the millsite opinion. The millsite opinion

reversed 125 years of practice instilling uncertainty into the operating plans for new projects and mine expansions.

With the security of tenure in jeopardy, coupled with permitting uncertainties and lawsuits brought by environmental groups, the U.S. has lost its market share of the exploration dollars to other countries.

This morning we will examine solutions to these problems facing the domestic mining industry. I look forward to hearing from our witnesses.

Mr. POMBO. I would like to now recognize Congressman Faleomavaega for his opening statement.

**STATEMENT OF THE HON. ENI F.H. FALEOMAVAEGA, A
DELEGATE IN CONGRESS FROM AMERICAN SAMOA**

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I appreciate your calling this hearing this morning. I certainly would like to offer my commendation and thanks to the gentleman from Nevada who is hosting us in this Committee hearing, Mr. Gibbons, for the hospitality and the graciousness of the staff in helping us with logistics and enabling us to be here this morning.

I think that with all the problems that we're facing today, sometimes we need to pat ourselves on the back and say what a great nation that we live in. And what I mean by this, Mr. Chairman, is the fact that our country is one of diversity, so many different interests and a tremendous amount of resources. And I think this has also attributed to the fact that this is the reason why we're the best and most powerful country in the world economically, as well as militarily.

The sad part of the aspects of our function and working as members of this Committee is the fact that many members don't know some of the specific facts that you have just reiterated, which I think is very important.

My understanding of the geological survey estimates that the total domestic mineral production last year was about \$38 billion, and which would affect some 55,000 people, as far as working in this important industry.

And when you process this amount of minerals that are being done domestically, it—the total value comes to some \$373 billion. And then when you go a little further and combine that with 60 mineral materials and estimate a value beyond the—when we—the major industries in consuming the processing of these minerals, it comes to—and I hope I read this correctly—\$1 trillion 700 billion, as far as our total gross domestic product.

And I am surprised that I didn't know that Nevada is the source of almost 81 percent of the Nation's gold, and 31 percent of the silver production domestically. My gosh. Do people know that this is the gold state? Maybe Mr. Gibbons will help me find a pan and start going out there and looking for gold.

I suspect a lot of the gold is probably contaminated with all the nuclear testing that was conducted years ago. I know something about nuclear testing, Mr. Chairman, because we had it in the Pacific, two sides, in the Marshall Islands and also in Tahiti, in French Polynesia, where the French government conducted well over 220 nuclear detonations. And to this day, we're still bearing some very serious and sad commentaries of what happened in that era.

Mr. Chairman, I know probably some of my colleagues will wonder, well, what is a Pacific Islander doing here, other than the fact that a couple of our boys do play for the UNLV football team. We do export probably more NFL players than any other place that I'm aware of here in our country.

But truly, I think it's very important, and I commend you and the members of this Committee, to find out what the status and the health situation is of our domestic mineral industry. And, of course, we're always confronted with the problem of overregulation and the problem of no regulation. That always seems to be the issue that we go through every year in the Congress.

And my point, Mr. Chairman, is, why am I interested in minerals? I suspect that many Americans don't realize that we have what is known as seabed minerals in the Pacific. I know for a fact in the Cocos Islands, a recent survey was conducted, and they had probably well over \$200 billion worth of seabed nodules. These nodules contain cobalt, nickel, copper and manganese. The sad part about it, Mr. Chairman, is that our country is not in the forefront as far as developing the technology to harvest hundreds of billions of dollars worth of seabed nodules out there in the Pacific.

So I'm very happy to be here, Mr. Chairman, to learn something about our domestic production and how much I could be of help to the gentleman from Nevada to see that when we have issues come in front of the Committee, unfortunately, that not very many members of our Committee should have been here to get a real education about the status and the health of our mineral resources. And I couldn't think of a better state than Nevada to conduct these hearings.

Again, Mr. Chairman, thank you, and I look forward to hearing from our witnesses. Again, I thank my good friend from Nevada for hosting us for this hearing.

Mr. POMBO. Thank you.

Mr. POMBO. And I would now like to recognize the gentleman from Nevada Mr. Gibbons.

STATEMENT OF THE HON. JIM GIBBONS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. GIBBONS. Thank you very much, Mr. Chairman. It is indeed an honor and privilege for me to welcome you, Mr. Pombo, from California here. I want to thank you for your leadership and, of course, for your willingness to hold this very important hearing for Nevada and the industry, which means so much to, not just Nevada, but to this country, and it deals with an issue that is so significant and so important, that sometimes we take for granted a number of these issues that we will be talking about today, and it's important that we allow for the public to hear them as well.

I am also happy to welcome my friend, Mr. Faleomavaega from American Samoa, who has been to Nevada on several occasions, one of which was a hearing on wild horses, which we previously held, and he's been a very helpful colleague. He's also been a great friend of Nevada, and including the Yucca Mountain nuclear waste issue, which he has a great sensitivity to Nevada on, and I'm always grateful to have him here in Nevada, as well as I am happy

to have our colleague and friend Chris Cannon from the First—or is it the Third?

Mr. CANNON. Third.

Mr. GIBBONS. —Third District in Utah. And Chris serves with us here on this Committee and is a classmate of mine, and someone who has a very bright intellect when it comes to the issues with regard to the subject matter.

And last, Mr. Chairman, I want to thank all the witnesses who have come here today to spend their morning educating this Subcommittee on the role of hard rock mining and the industry and the many challenges that are facing us.

And before I give my opening remarks here, I want to say that many of us read an article this morning in the Business Section of the Reno Gazette-Journal on—and some environmental groups have complained that they weren't invited, and one in particular was the Great Basin Mine Watch. They were not happy that they were not invited, Mr. Chairman.

I want you to know that, and them to know, that this Committee accepts all written testimony. We're happy to do that. And it will remain open for 2 weeks—or 10 days, for them to submit their written testimony as well.

But that being said, let me set the record straight with regard to what the article said, because I think it was a little misinformed.

We've heard on numerous occasions from Great Basin Mine Watch on these mining hearings. They have testified before. The purpose of our invitation to other groups was to get other environmental groups that have not testified before our Committee, invited to testify before you, the public, and before this Committee. They declined to do so.

And the reason that Great Basin is upset is because we had elected to invite those organizations that have not previously testified. So we would have been hearing from the choir had we heard from Great Basin, we would have heard what they've already said before.

So I wanted to clear that up for the record, Mr. Chairman, before we committed.

But, Mr. Chairman, as you know, I have a personal background and experience in the mining industry as a geologist. I spent many years out in Nevada in hard rock mineral exploration and other activities. And over the past 30 years, I've witnessed the attack on the industry gain momentum as various special-interest groups, mostly radical environmental organizations not from Nevada, and some government entities, even, create arbitrary obstacles with the intention of preventing any mining from occurring in this country. And it is a sadly misguided assault against one of our Nation's oldest, most responsible and important industries.

Examples of these arbitrary barricades include the 1997 Solicitor General's Opinion on millsites. This opinion, Mr. Chairman, has created substantial uncertainty for hard rock miners, deterring the development of mines on public lands, and contributing to this Nation's ever increasing reliance on foreign minerals. Another example is the '94 Mining Patent Moratorium, which prevents the BLM from processing any new mining patents, resulting in a forced mass exodus of American mining companies to foreign markets.

The EPA has vilified the mining industry with its outrageous requirements to report the transfer of rocks as toxic releases into the environment, and yet they do not address the farming industry, which tills up probably far more soil and far more overburden and moves it—but that's not why we're here. Thank you, Mr. Chairman, for reminding me.

But in any event, every week I receive letters and phone calls from individuals conveying the horror stories of trying to get a mining project permitted. In fact, the mining companies have been trying for over a decade and still do not have a drill in the ground, in some instances. And for those companies that have been fortunate enough to finally make it through the permitting process, they often get slapped with frivolous lawsuits only to delay the process for a few more years.

Mr. Chairman, the fact is that our technologically advanced society depends on the mine, on mining, for phones cars, medical equipment and, yes, indeed, food substances, such as the filling in Oreo cookies. Our national security also depends on a viable domestic mining industry, and that couldn't be any more important than it is today with the history of this country and the fight that we're undertaking now.

Our military needs minerals for airplanes, computers, weapons. The United States would be left, I believe, quite vulnerable if we were forced to depend on critical minerals from foreign countries. Consequently, mining must continue to occur in our nation so that we do not become dependent on foreign countries for our mineral development like we have become dependent on our foreign oil supplies.

And the question here is, Mr. Chairman, will a hostile regulatory atmosphere in the U.S. force our domestic industry to move entirely offshore, or will this government come to recognize the magnificent benefits a flourishing domestic mining industry can provide, including jobs, economic growth and stability, industrial independence, and a high standard of living?

This hearing is a step in the right direction. We, as members of Congress, can take the information presented here today and use it to make sound policy decisions.

Again, thank you, Mr. Chairman, for holding this hearing in Reno today. My constituents and I are very grateful, and appreciate your commitment to this important issue. And I want to once again thank everybody for being here today.

Mr. POMBO. Thank you.

Mr. POMBO. Mr. Cannon?

**STATEMENT OF THE HON. CHRIS CANNON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH**

Mr. CANNON. Thank you, Mr. Chairman. I would like to associate myself with the comments of Mr. Faleomavaega and Mr. Gibbons in their thanks to you, and Mr. Faleomavaega's thanks to Mr. Gibbons for hosting us here today.

You know, I read the article this morning in the Reno Gazette-Journal about the whining by the Great Basin Mine Watch Group. I thought that was a pretty good article, good for you, Jim, but then I may be a little harsher. It seems to me you referred to them

as a choir, but if they are a choir, there's a tendency, I think, there to focus on dissident music.

Anyway, we did an interesting thing the other day. I'm the Chairman of the Western Caucus, which loves to be supported with what this Committee is doing. I'm the chairman of this committee—or the former chairman of the Western Caucus. And we have been working with certain lots and groups, including a group called Partnership for the West, which held a meeting in Denver a couple of days ago.

And so we had—the Western Caucus is a Republican caucus. It's a white camel, so you have Senators and Congressmen, but it's only Republicans.

And so I spoke and, unfortunately, I suppose, I was a little bit partisan. Fortunately, Mark Udall, who is a Democrat from Colorado, came after I finished speaking, so I was not offensive to him personally. But his presence there was, I think, interesting. He came knowing what the agenda was, knowing what the mission statement of that group was, said, "We need to work together to solve these problems."

And by the remark, I count him as a friend. But he is sort of on the other side of these issues philosophically from me. But he has indicated in the past his interest in working on issues like our public roads and wilderness issues. So his presence there, I take as a great sign. In fact, I think if you look at America today and where we are politically, now is the time that we need to resolve some of these long-standing issues, and we need to do things a little better all the way around.

But we don't resolve them by taking away the ability of regulation and Federal costs piled on this industry. We do it by doing things more efficiently, smarter, more scientifically. And so I look forward to the testimony of our witnesses today to help us understand where we are and where we're going, and perhaps help us figure out how we do it more efficiently with—with lower costs and more production and more independence and a better economy and more jobs. Yield back to you, Mr. Chairman.

Mr. POMBO. Thank you.

Mr. POMBO. I would like to call up the first panel to testify today, Mr. Bob Abbey, who is the BLM Nevada State Director. And before you sit, as is customary, on the Resources Committee, we swear in all the witnesses. So if I could have you raise your right hand.

[witness sworn.]

Mr. POMBO. Let the record show he answered in the affirmative. Thank you very much for being here.

**STATEMENT OF BOB ABBEY, NEVADA STATE DIRECTOR,
BUREAU OF LAND MANAGEMENT**

Mr. ABBEY. It's kind of a lonely panel up here by myself, but, Mr. Chairman, and Members of the Subcommittee, certainly the Department of Interior appreciates the opportunity to participate in this hearing and responding to issues regarding the Bureau of Land Management's role in helping provide responsible mineral development and economic stability.

The Bureau of Land Management is keenly aware of the challenges facing the mining industry today, and we all agree that

there are compelling reasons to encourage investment and support for development of our mineral resource.

I know our time this morning is quite limited, and you have several people that you want to hear from, so what I plan to do is give you a very brief overview highlighting some of the actions that the Bureau of Land Management is taking to implement our agency's mining law administration program. However, I request that my written statement, which has been submitted to the Members of this Committee, be included as part of the record.

Mr. POMBO. Without objection, your entire written testimony will be included in the record.

Mr. ABBEY. Thank you, Mr. Chairman.

First let me begin with a brief description of the Bureau of Land Management's surface management regulations, also known as the 3809 Regulations. Under the previous administration, revised 3809 Regulations were issued on November 21st, 2000, and became effective on January 20, 2001. That rule was subsequently revised in October of 2001 to remove several provisions that Secretary Norton felt were unnecessarily burdensome. These changes took effect on December 31, 2001.

The overall purpose of the regulations continue to be the protection of our environment while providing for reliable and affordable supply of minerals.

An important change implemented in the January 2001 rule that has been retained is the bonding of exploration and mining operations on public land. We believe that a strong financial guaranteed process is necessary to ensure that taxpayers are not left paying for the cost of any necessary clean up.

All operations, including notice-level operations, those with five acres or less, that will cause more than a negligible disturbance are now required to have a bond or other form of acceptable financial guarantees that cover all anticipated reclamation costs.

The new regulations disallow the use of new corporate guarantees while honoring those in place prior to January 20, 2001. Increases to existing corporate guarantees and transfer of corporate guarantees to another operator are no longer allowed.

The September 11, 2001, disaster-related losses, as well as the recent forfeitures of major corporations have had a significant impact on the surety industry. Because of these losses, companies have become more cautious in reducing their exposure to financial risk. These actions have had a direct impact on the minerals industries' ability to secure required bonding.

This problem is of particular concern to the Department of Interior. A bonding task force was established last year to review the availability of surety bonds or other mechanisms to meet Federal and tribal financial assurance requirements for mineral extraction industries. We anticipate that this task force report will be completed soon and will be forwarded to the Secretary for her consideration. In the interim, BLM is striving to assist the industry where possible in meeting requirements to provide financial guarantees for outstanding reclamation and other liabilities.

BLM is working with State agencies to set up mechanisms, such as bond pools to assist small miners in obtaining coverage. Nevada is one of three states that currently employs State bond pools.

Several BLM state offices, including Nevada, have been working with states to simplify the reclamation costs estimating process, Colorado, Montana, Utah, as well as Nevada, are all exploring opportunities for the State to take over implementation of certain aspects of the 3809 Regulations.

You mentioned this morning the congressionally mandated mineral patent program. Well, I'm pleased to report that this process is nearing completion. The Bureau began this program in October 1994 with 405 grandfathered applications. Today we've made decisions on 343 of those applications, and have another 67 applications more to complete.

Of those 67 applications, 25 require remaining field work, that is, performing on-the-ground mineral examinations. We expect the field work to be completed in October of 2003, and we anticipate that all remaining adjudication actions will be completed by October of 2004.

One area of great interest to the industry is the pending review of the 1997 Solicitor's Millsite Opinion, which outlines the number and use of millsites. The BLM was aware of the potential for this opinion to place constraints on large mining operations and associated support facilities, such as mills, waste rock disposal, tailing ponds, and transportation facilities.

The 1997 Opinion is currently under review by the Office of Solicitor, and we would expect that the Secretary would make a determination of whether or not that 1997 Solicitor's Opinion should be changed. That decision should be coming probably within the next month or two.

As the BLM State Director in Nevada, the remainder of my testimony, which is very short now, will focus on BLM mineral activities on public lands in Nevada.

As you mentioned, Nevada ranks first in the Nation and third in the world in production of gold. We're also the Nation's leading producer of barite, lithium carbonate, and a significant contributor to other important hard-rock minerals.

Public lands in Nevada play a significant role in providing minerals to our nation. Mining has enriched our nation by creating jobs, stimulating manufacturing, contributing energy, and expanding our economies. It does fall upon our shoulders, working with local governments and state governments, to ensure that all mining operations conduct themselves in an environmentally friendly manner.

I'm pleased to report, Mr. Chairman, and Members of this Committee, that the Bureau of Land Management in Nevada has a great working relationship with the State of Nevada and the agencies that we work with, including Federal agencies like your Environmental Protection Agency, to ensure that our responsibilities are met.

Based upon the number of active notices and plans of operations in Nevada, we have 50 percent of the Bureau's national total in the service management programs. Mining activities in Nevada require a plan of operation, also require a permit from the State of Nevada, Division of Environmental Protection. The Bureau of Land Management in Nevada and the state agencies work together to provide the industry with a joint permitting and bonding process.

In the last three years, the State and the BLM have mitigated safety hazards on more than 900 abandoned mine sites. We're partnering with the Nevada Mining Association and the Nevada Division of Minerals in backfilling mine sites. Sites near urban areas, such as Las Vegas, are given our highest priority.

Good stewardship, if I may, is exemplified by the mining industry and the State of Nevada through their efforts in reclamation. There were 13 nominees from Nevada for the 2003 National Reclamation in Sustainable Mineral Development Award, nominees including individual operators, as well as the Nevada Mining Association. The nominations of individual operators focused on their successful site reclamation efforts.

The Nevada Mining Association has routinely been recognized for its very active involvement with the Bureau of Land Management and the State to reclaim abandoned mine sites that have hazardous open shafts and other public safety concerns.

Mr. Chairman, the Bureau of Land Management is committed to Secretary Norton's Four C's Guiding Principles of communication, consultation and cooperation, all in the service of conservation as we pursue our mission to be good stewards of our Nation's public land and work cooperatively with the Nevada mining industry.

We appreciate the opportunity to testify here today, and I welcome any questions that you might have.

Mr. POMBO. Thank you. Thank you for your testimony.

[The prepared statement of Mr. Abbey follows:]

**Statement of Robert V. Abbey, State Director, Nevada State Office,
Bureau of Land Management, U.S. Department of the Interior**

Madam Chairman and Members of the Subcommittee, thank you for the opportunity to participate in this hearing and to respond to issues regarding responsible domestic resource development, economic stability, and the role of the hard rock mining industry. The Bureau of Land Management (BLM) is keenly aware of the challenges facing the mining industry today. We all agree that there are compelling reasons to encourage investment that supports development of our mineral resources.

3809 Regulations

I would first like to discuss the BLM's surface management regulations, also known as the 3809 Regulations. Under the previous administration, revised 3809 Regulations were issued on November 21, 2000, and became effective January 20, 2001. That rule was subsequently revised in October 2001 to remove several provisions that were unnecessarily burdensome; these changes took effect on December 31, 2001. The overall purpose of the regulations continues to be the protection of our environment while providing for a reliable and affordable supply of minerals. One important revision to the January 2001 regulations was the elimination of the "substantial irreparable harm" provision. We determined that BLM has other statutory and regulatory means to prevent irreparable harm to significant resources and, therefore, this provision was not needed.

The reference to "joint and several" liability was also removed. We recognized that neither the Federal Land Policy and Management Act nor the Mining Law expressly provided for joint and several liabilities. Therefore, BLM will rely on surety bonds and other financial guarantees to ensure against incomplete reclamation responsibilities.

A third substantive change to the January 2001 rule was the removal of a provision that established administrative civil penalties. Again, clear authority to impose such penalties was uncertain and appeared to require Congressional authorization.

An important change implemented in the January 2001 rule that has been retained is the bonding of exploration and mining operations on the public land. We believe that a strong financial guarantee process is necessary to ensure that taxpayers are not left paying for the costs of cleanup. All operations, including notice-level (5 acres or less) operations that will cause more than negligible disturbance,

are now required to have a bond or other form of acceptable financial guarantee that covers all anticipated reclamation costs. In addition, the new regulation disallows the use of new corporate guarantees, while honoring those in place prior to January 20, 2001. Increases to existing corporate guarantees and transfer of corporate guarantees to another operator are no longer allowed.

Bonding Task Force

The September 11, 2001, disaster-related losses, as well as the recent forfeitures of major corporations, have had a significant impact on the surety industry. Because of these losses, companies have become more cautious and are reducing their exposure to financial risks. These actions have had a direct impact on the mineral industry's ability to secure bonds. This problem is of particular concern to the Department of the Interior. A Bonding Task Force was established last year to review the availability of surety bonds or other mechanisms to meet Federal and Tribal financial assurance requirements for mineral extraction industries. The Task Force's charge was: 1) to gather information and statistics; 2) to evaluate the problem; 3) to determine its severity and scope; 4) to identify regulatory impediments that may make it difficult to obtain surety bonds; and 5) to make recommendations to the Secretary, as appropriate. The Task Force is in the process of evaluating all the comments received and exploring various administrative options. We anticipate the report will be completed soon and will be provided to the Secretary for her consideration.

In the interim, BLM is striving to assist the industry, where possible, in meeting requirements to provide financial guarantees for outstanding reclamation and other liabilities. In compliance with the bonding requirements of the January 2001 regulations, BLM adopted the policy that financial guarantees would not be required from "grandfathered," small notice-level (less than 5 acres) mining operations until 60 days after BLM formally notifies the operator of the required bond amount. This allows notice-level operators to continue to operate, pending BLM acceptance of the required financial guarantee. BLM is working with states to set up mechanisms, such as bond pools, to assist small miners in obtaining coverage. Nevada is one of three states that currently employs state bond pools.

In an effort to deal with many of the uncertainties created by changes in the surety market, combined with the new regulatory requirements, BLM has been actively preparing internal guidance. At the local level, BLM has been working with state and local agencies to streamline the review and approval process for new operations. For example, BLM - Nevada has a cooperative agreement with the Nevada Division of Environmental Protection that allows the operator to make a single submission for a proposed operation to both agencies. In addition, the agreement provides for coordinated review and approval by both the BLM and the state agency of the submission. Several BLM state offices, including Nevada, have been working with states to simplify the reclamation cost estimating process. Colorado, Montana, Utah and Nevada are all exploring opportunities for the state to take over implementation of certain aspects of the 3809 Regulations.

In another area, the Congressionally-mandated Mineral Patent Program is nearing completion. The Bureau began this program on October 1, 1994, with 405 grandfathered applications. To date, we have made final decisions on 343 applications and have 67 applications more to complete. Of those 67 applications, 25 require fieldwork—that is, performing on-site mineral examinations. We expect the fieldwork to be completed by October 2003. The remaining applications are in various stages of review by the BLM and the Office of the Solicitor. We anticipate that all adjudication actions will be completed by October 2004.

One area of great interest is the pending review of the 1997 Solicitor's "Mill Site" opinion, which outlines the number and use of mill sites. The BLM is aware of the potential for this opinion to place constraints on large mining operations and associated support facilities, such as mills, waste rock disposal, tailings ponds, and transportation facilities. The 1997 opinion is currently under review by the Office of the Solicitor.

Hard Rock Mineral Resources in Nevada

As BLM State Director in Nevada, the remainder of my testimony will focus on BLM's mineral activities on public lands in Nevada. Today, Nevada ranks 1st in the Nation and 3rd in the world in the production of gold. Nevada is also the Nation's leading producer of barite, lithium carbonate, and mined magnesite, and a significant contributor to other important hard rock minerals. Public lands in Nevada play a significant role in providing minerals to our Nation. Mining has enriched our Nation by creating jobs, stimulating manufacturing, delivering energy, and expanding our economy. The benefits of hard rock mining accrue on a local as well as National

scale. For example, in February 2002, the Board of County Commissioners of Elko County, Nevada, in response to the Department's pending rulemaking to revise the 3809 Regulations, stated, "this activity [hard rock mining] generates substantial economic benefit to our County consisting of direct mining and mineral exploration jobs, indirect jobs associated with other businesses in the County, property taxes, and other community support from the mining industry."

Mining is the second largest industry in Nevada, and BLM employees in the state have workloads to prove it. BLM Nevada annually records more than 50 percent of the new mining claims in the Nation and maintains nearly half of the Bureau's active recorded mining claims. There are currently 105,465 active mining claims on public lands in Nevada.

Based on the number of active Notices and Plans of Operations in Nevada, we have 50 percent of the Bureau's National total in the surface management program. We have 321 approved Plans of Operations on public lands in Nevada. In addition, there are 353 active Notice operations and 1,733 recently expired Notices. In cooperation with the state, BLM manages \$465 million in financial guarantees for active Notices and Plans of Operations. \$220,000,000 of those financial guarantees are in the form of grandfathered corporate guarantees.

The boom and bust cycle of mining is well-known in Nevada. Through the 1980s and 1990s, the state saw a boom in gold and silver mining, although there was a slight downturn in the latter part of the 1990s and early 2000. Presently, Nevada is experiencing renewed activity in claim staking, exploration and several new mines being proposed for development. Claim staking has increased nearly three-fold over the previous two years with a corresponding increase in exploration Plans and Notices. At the same time, it is evident that the boom cycle of the 1980s has matured. Several mines are now in closure and several more are in their final years of operation. However, the BLM's workload has not decreased. We are actively involved with mine closures, bonding (for both Plans and Notices), mine bankruptcies, abandoned mine closures, as well as new Plans for exploration and mine development.

Mining activities in Nevada requiring a plan of operation also require a permit from the State of Nevada, Division of Environmental Protection. BLM Nevada and the state agencies work together to provide the industry with a joint permitting and bonding process. A staff position, funded in part by industry fees paid through the State of Nevada, and in part by BLM, serves as a liaison with the state's Division of Environmental Protection. The BLM in Nevada, the state, and EPA are developing new guidelines for mine closures. BLM has also developed guidelines for bonding, re-vegetation, water modeling and risk assessment for new mining plans. This guidance is intended to clarify the process for all parties and hopefully expedite the review and approval process.

In the last three years, the state and the BLM have mitigated safety hazards on more than 900 abandoned mined sites. For example, BLM is partnering with the Nevada Mining Association and the Nevada Division of Minerals in backfilling mining sites. To protect public health and safety, sites near urban areas, such as Las Vegas, are given priority. Almost 80 sites have been cleared for closure in Clark County.

Good stewardship is exemplified by the mining industry in Nevada through their efforts in reclamation. There were 13 nominees from Nevada for the 2003 National Reclamation and Sustainable Mineral Development awards. Nominees included individual operators and the Nevada Mining Association. The nominations of individual operators focused on their successful site reclamation efforts. The Nevada Mining Association has routinely been recognized for its very active involvement with the BLM and the state to reclaim abandoned mine sites that have hazardous open shafts and other public safety concerns. With a rapidly growing population and increasing demand for recreation on public land, reclaiming and securing abandoned mine land sites around campgrounds, off-highway racecourses, hiking trails and popular recreation areas is a priority.

Conclusion

Madam Chairman, BLM is committed to Secretary Norton's 4C's guiding principles of Communication, Consultation, and Cooperation—all in the service of Conservation, as we pursue our mission to be good stewards of our Nation's public lands and work cooperatively with Nevada's mining industry.

Thank you for the opportunity to testify before you today. I welcome any questions the Subcommittee may have.

Mr. POMBO. I am going to defer to Mr. Gibbons to ask the first round of questions.

Mr. GIBBONS. Thank you very much, Mr. Chairman. And, Director Abbey, thank you very much for taking time out of your day to be here to testify to us.

I mean, in fact, your testimony today is literally a good-news story, as I see it, for the industry. There's no doubt, and I am sure you would agree, that historical mining practices 20, 30, even 50 to 100 years ago, weren't as successful in dealing with the environment as mines are today.

The fact that we have 13 nominees from Nevada for the 2003 National Reclamation and Sustainable Mineral Development Awards, I think speaks highly for an industry that is very conscious of the fact that the environment is indeed something that they are concerned about.

My question goes back to your testimony about bonding. You indicated that the—you're working to improve the availability of bonding assurances that are out there. Have you been aware, or are you aware, of a reduction in the willingness of entities to provide bonding assurances for mining operations in the last couple of quarters?

Mr. ABBEY. I'm not aware of any lack of willingness to provide the bonding that we require. The industry is definitely in trouble, the surety industry is definitely in trouble, and it's becoming more and more difficult for mineral extraction industries, as well as many other types of industries, to secure those bonds that we require.

Mr. GIBBONS. So the actual availability depends upon the cost of that bond to the individual mining companies, and I'm sure that that is rising each and every time they make an application for a bonding and permitting process.

Mr. Abbey, there are some that will ask you about the delay in the permitting process, and I think it would—reasonable certainty, some companies have had an unusual long delay in getting their permitting completed here in Nevada.

What can you tell us about the BLM's effort to work toward getting those permitting applications completed and finished up for some of these companies?

Mr. ABBEY. Congressman Gibbons, I believe that there are some legitimate concerns that have been voiced by the industry regarding the timeframes that it takes to get to all the necessary permits required for mining. We have tried to streamline the process to the degree that we can by working with the State of Nevada for a joint permitting process so that the industry can apply only one time, and then we work together with the State to issue one permit.

Mr. GIBBONS. Mr. Abbey, could you tell us, just briefly, how many permits a mining company has to go through in order to get—

Mr. ABBEY. Congressman Gibbons, I certainly do not know.

Mr. GIBBONS. Is there more than one?

Mr. ABBEY. I would imagine it is. There's plenty of permits they have to receive in order to pursue their operations. I'm sure the industry folks here today will be happy to provide you that information.

I will say this, that the timeframe has certainly been extended significantly by the amount of litigation that we see. Almost every decision that we make regarding an application or proposal for a new mine is either protested, appealed or litigated, and in most cases, all three. That certainly adds to the timeframe that it takes for issuing a permit from the Bureau of Land Management to proceed with the mining operation.

Mr. GIBBONS. So what you are saying is that after they've gone through the process that you've outlined, or the BLM has outlined, that they're required to go through in order to achieve a permit, to explore, to drill, to operate a mine, once you have gone through that step-by-step process to make assurances that it meets your standards, they then are subject to protest, appeals and litigation?

And how many years on average does that course of action add to the time that a company can finalize its permit?

Mr. ABBEY. It can add several years to the process.

Mr. GIBBONS. So if a company is out there with a \$400 million investment looking to help amortize that by getting their operation going, they can expect that their return on their investment could be delayed significantly, years and years into the future?

Mr. ABBEY. Yes, sir, it could. And I believe that the mining industry—and again, I will let them speak for themselves, but I am sure that they plan for that timeframe as part of their proposals. Unfortunately, you know, it—we will—we can address a protest fairly quickly. An appeal to the Interior Board of Land Appeals can take up to two or three years before a decision is issued by the Interior Board of Land Appeals. And even when we go through that process, that does not preclude anyone from filing a lawsuit.

Mr. GIBBONS. Thank you, Mr. Chairman. Thank you, Mr. Abbey.

Mr. POMBO. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. And I appreciate Mr. Abbey's testimony this morning.

Just a couple of questions in refreshing my memory, also. The total percentage of the public lands in the State of Nevada is owned by the Federal Government. Well, I would like to know, what is the percentage of the public land that is owned by Uncle Sam?

Mr. ABBEY. The Bureau of Land Management manages 48 million acres in the State of Nevada. That's 68 percent of the state. The total land base that's managed by the Federal Government in the State of Nevada comes to 87 percent.

Mr. FALEOMAVAEGA. So you might say there is a tremendous influence as far as Federal involvement with the use of the lands in the State of Nevada in that regard?

Mr. ABBEY. Some might say that.

Mr. FALEOMAVAEGA. Putting it mildly; right?

I know that under your administration it—and I don't know, maybe I'm wrong—dividing these public lands some for mining, obviously, permits for agriculture and those for ranching, what percentage of this goes to mining, of the 45 million acres that we have here in Nevada?

Mr. ABBEY. Of the 48 million acres, most are available for mining. We have withdrawn some lands, primarily through legislation,

like wilderness legislation, designations of National Conservation Areas that have been withdrawn from—from mineral entry.

Mr. FALEOMAVAEGA. I indicated earlier in my statement that there is always this nagging problem of extreme situations, where we find ourselves to be overly regulated, to the point where there's no regulation. I would like to describe myself as a sentry. I would like to think that there should be some kind of a balance in—in doing both.

And I wanted to ask you, do you think that the previous administration was a little too hard at being overly—filling up the books with regulations as compared to the current administration?

Mr. ABBEY. I have worked for the administration that's in office at any given time, so I will watch my response to that.

Mr. FALEOMAVAEGA. Well, you're a career person. You don't have to worry about that.

Mr. ABBEY. I sort of believe that the industry itself would suggest that they felt there was an overregulation of the industry during the past administration. I think Secretary Norton has done a good job of trying to weigh the pros and cons of what our responsibilities are of managing these public lands in an environmentally sensitive manner, at the same time to provide opportunities for these much-needed resources to be developed.

Congressman, as you suggest, there is a—there is a balance, and the balance is what we're pursuing. My experience with today's mining industry has been one that's most favorable. They understand their responsibilities, they understand that many of us are still living with the legacies of yesterday, and we're going to great lengths working together to address those sad legacies that were caused by historic mining practices throughout the Western United States.

Today we are making much progress toward the types of balance that we both wish. So I would say that Secretary Norton has done a good job of addressing the need to balance our protection of the environment with the need to provide additional resources for this nation.

Mr. FALEOMAVAEGA. As I said earlier, I was surprised that 81 percent of the production of gold here in our country comes from the State of Nevada, and I know that gold is not found in mother lodes, you can't get out a whole bunch of gold somewhere. And I'm curious, because I know that the largest gold mining operation in the world is at west Papua New Guinea, as you are probably familiar with that, and is currently operated by a mining company from Louisiana and also from Australia. And they've literally had to move mountains for—tons and tons of dirt to produce one ounce of gold.

And I'm curious, to produce one ounce of gold in the current mining operations in the State of Nevada, how much—how much dirt do they have to lift to get that?

Mr. ABBEY. Significant. It—you know, I certainly would invite you to, next time you come to Nevada, to take a tour of some of our large mining operations in Northern Nevada.

Mr. FALEOMAVAEGA. I am going to definitely ask Mr. Gibbons permission to do that. And I just want to mention, because my time is up and I don't want to take this further, this operation on west

Papua New Guinea is a disaster, as far as everyone is concerned, unfortunately, and I'm glad to hear that there are very sensitive—there's a tremendous sensitivity toward environmental aspects of mining for gold in the State of Nevada. This is not the case in west Papua New Guinea. But I will hopefully get a chance to visit your mining operations here in the state.

Mr. Chairman, I know my time is up. Thank you. Thank you, Mr. Abbey.

Mr. POMBO. Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman.

You know, Utah, if you didn't have Nevada, Utah would be this huge gold producer, maybe 20 percent of the Nation's gold, which represents about a twentieth of what is produced in Nevada. It truly boggles the mind what we're doing.

Let me just point out that one of the problems that I have with some of the environment—extreme environmental controls of mining in America is we tend to export our disasters to areas where they don't have the technical or other capabilities to control what happens, which is one of the reasons I would like to have a development here in Utah—you said an interesting thing, Mr. Abbey, you said, most of your decisions are protested, appealed or litigated.

Do you have a sense of what percentage of BLM's budget overall around the country goes toward that, either the litigation or appeal or protest process?

Mr. ABBEY. Congressman Cannon, we're trying to track those actual costs right now. We've done a poor job of being able to account for all the dollars that it takes us to deal with the protests, appeals, and litigation. So, sir, I do not have a dollar amount for you.

Mr. CANNON. I have heard that between the Forest Service appeal and the Fish and Wildlife Service that between 48 and 58 percent of the budgets of those agencies are going toward litigation. Would that be ballpark for BLM?

Mr. ABBEY. I would certainly think that about 20 to 25 percent of our total costs are going to address protests, appeals or litigation. What we do not account for is the amount of time that is lost while we are going through those processes.

Mr. CANNON. Right. Which might double that 25 percent?

Mr. ABBEY. Yes, sir.

Mr. CANNON. I think that's probably where that 50 percent more or less comes from.

You're aware that Senator Daschle asserted in, I guess it was last year's Omnibus Bill a few years ago, a limitation on Federal court jurisdiction over appeals of decisions made in the Black Hills Forest? Are you familiar with that?

Mr. ABBEY. Yes, sir.

Mr. CANNON. Is that something we need to do more broadly in America?

Mr. ABBEY. I would certainly support—and I'm speaking for myself—I could certainly support such an action by Congress.

Mr. CANNON. Are you familiar with the Forest Hill Initiative?

Mr. ABBEY. Yes, sir.

Mr. CANNON. And the limitation on jurisdiction there?

Mr. ABBEY. Yes, sir.

Mr. CANNON. Do you feel that those are appropriate in that regard?

Mr. ABBEY. I sure do.

Mr. CANNON. Let me just offer, Mr. Chairman, my Subcommittee on Judiciary oversees the commercial and administrative law aspect of this, and that means what we do administratively with the rules and regulations that result in—and this matter of litigation seems to be actually working on something to reduce that cost so that we can move dollars into oversight and management and away from these frivolous lawsuits.

In addition, let me just point out that this is a—a net benefit gain for some of these environmental groups who don't have to pay anything if they lose, and they can lose many, many lawsuits and then they get extraordinary attorneys' fees on the other side if they win one, so that it's a self-funding process, which has done nothing but tie up the administration, this administration, the last administration, the administration before that, as far back as I can remember, in costly litigation, costly in terms of dollars and costly in terms of time, costly in terms of the resources we're not developing, and costly in terms of what we're not managing and how we're not managing it.

So let me just make an offer that we ought to be working together on that issue. And I yield back to you, Mr. Chairman.

Mr. POMBO. Thank you. Mr. Abbey, how long have you been involved in regulating the mining industry?

Mr. ABBEY. Mr. Chairman, I have 21 years of experience working for the Bureau of Land Management, and the BLM being a multiple-use agency, I've been involved in some aspect of regulating mining for all 21 years.

Mr. POMBO. And in—in your testimony and in answering the questions from Mr. Gibbons, you talked about the changes in the mining industry. One thing I'm interested in pursuing a little bit is, how have things really changed over those 21 years in terms of what a mining company does when they actually go in and start a new mine, and what they leave when they're done?

Mr. ABBEY. From my experience, it certainly will start with the amount of time that it takes to review proposals that are coming from industry and for us to issue a decision. It certainly has, over the years, has expanded to include an average of four to five years to issue a permit after addressing the protests, appeals and litigation I mentioned earlier.

What I see primarily is that we have all learned over the years. The proposals that we're receiving from the mining companies are certainly much better proposals, there's more specifics, so we have a better idea of what the lasting consequences of these actions are. We have a lot more experience under our belts relative to the modeling that we use now to assess and evaluate anticipated impacts from these operations and the likely consequences of the—that's going to be left as a result of mine closures, and how those impacts can be mitigated.

So I believe that we've all learned over those years, and we all benefit from that lesson, or those lessons. So I think for the most part, as I suggested to Congressman Gibbons, is that the industry

today does a much better job than what they were doing 10 to 15 to 20 years ago.

Mr. POMBO. What—when you talk about how long it takes to get a permit, what is the biggest delay? Is it just working their way through your bureaucracy or what slows it down?

Mr. ABBEY. I think to some degree we can accept the legitimate criticism that it takes us too long to review proposals. On behalf of our employees, I must say that we try to—we fully understand that every decision we make is going to be protested, appealed or litigated, so sometimes we may go to the extreme to try to address any question or every question that we believe might be raised as part of those processes.

As a result, the requirements that we place upon industry, as far as helping us to—to come up with the information that we need in order to incorporate into the environmental impact statements, that we must do to assess potential impacts from these operations, that instead of just addressing those known issues, we're addressing much more than just the known issues, we're addressing the perceptions of what other issues might surface during the protest, appeals, litigation.

Therefore, the amount of time it is taking us to complete an Environmental Impact Statement is much longer today than it was three, four or five years ago.

Mr. POMBO. When you—when the system, you didn't do it, but when the system was set up—

Mr. ABBEY. Some people may think I've done that.

Mr. POMBO. Well, Congress bears a big part of the responsibility here. But when the system was set up and someone wants to go onto public lands and start to mine, and they have to go through this process, and you have all the environmental assessments and environmental impact statements, all of the different things that they have to go through, your agency has to go through consultation with other agencies, all of these steps that we have to go through, you're saying that it could take four or five years to go through that process. Isn't there something wrong with the system if, at the end of all of that, it's still open to lawsuits?

Mr. ABBEY. Well, again, speaking for myself, it's very frustrating to go through the process and get to the point of issuing a record decision, only to see that decision delayed by litigation. And we're on-hold from that point forward until the Federal court will rule on the accuracy of our decision.

So certainly it is very frustrating for us as members of this agency, who are responsible for administering the law, in carrying out the mandates that we have from the Department of Interior and from Congress. So I don't know about whether the system is broken, but I do know it's very frustrating to work within the system.

Mr. POMBO. What percentage of the—of the ones that are—of the permits that are challenged, what percentage of those do they actually overturn the permit or stop the permit from going forward?

Mr. ABBEY. Tom Wessendock, who certainly Congressman Gibbons knows, he's a former Deputy State Director for our mineral resources here in the Bureau of Land Management in Nevada, was fond of saying that the Bureau of Land Management never lost an appeal to the Interior Board of Land Appeals in mining issues.

That's not to say that it may not change, but we have certainly not fared as well in Federal litigation. Even now in Federal litigation, though, our success rate is very, very high. I don't have the percentages that you are asking for, but I do know that our success rate in Federal court has been very high.

Mr. POMBO. Can you provide that for the record for the Committee, because it—I think, as we look at mining law in the future, we really do need to look at the way this system works. And if all it has become is a way of delay and raise money, then maybe we need to look at doing something a little bit differently.

Mr. ABBEY. Mr. Chairman, I would be happy to provide that information to this Committee.

Mr. POMBO. I would also like to ask you about the patent moratorium. At what point does BLM come to Congress and ask to lift that moratorium?

Mr. ABBEY. Sir, that—I think that's the decision Secretary Norton would have to make. I certainly believe that if the current moratorium is a hindrance to this industry, then the industry themselves should be meeting with Secretary Norton to convey to her their concerns, and she would be the one that would have to make that determination and come back before the Congress.

Mr. POMBO. And just before I excuse you, I would just say that at one point I had dinner with a foreign minister of one of our allies, and he had a theory on what was going on in the United States. And it was his theory that the United States had made a— a conscious decision to deplete the natural resources of the rest of the world first, and that's why we were stopping mining and timber and oil extraction, resource extraction, in this country, because we wanted to go after all of the resources in the rest of the world first, and then we would be the only one with the mining resources and timber and oil resources left. And he was serious, he really did think that that's why we were doing this. So his perspective in looking at—at laws in this country from the outside was that it made so little sense, what we were doing, that we had to be doing this and it had to be a conspiracy just to deplete the rest of the world's resources.

And in listening to the stories that we've heard in doing these field hearings all over the country, whether we were talking about coal or timber or hard-rock mining or oil and gas, I'm beginning to wonder if maybe he wasn't onto something, because it sure doesn't make sense from—from where I'm sitting.

But I appreciate your testimony. If there are any further questions that members of the Committee have, they will be submitted to you in writing. If you could answer those in writing for the Committee so that they can be included in the record?

Mr. ABBEY. We'll be happy to. Thank you for this opportunity.

Mr. POMBO. Thank you very much.

I would like to call up our second panel of witnesses. We have Mr. Alan R. Coyner, State of Nevada Commission on Mineral Resources, Dr. John Dobra, Director of Natural Resources Industry Institute, University of Nevada, Reno.

And before you gentlemen sit down, if I could just have you stand and raise your right hand.

[Witnesses sworn.]

Mr. POMBO. Let the record show they answered in the affirmative. Thank you very much for being here today. If I can begin with Mr. Coyner.

**STATEMENT OF ALAN R. COYNER, STATE OF NEVADA,
COMMISSION ON MINERAL RESOURCES**

Mr. COYNER. OK. Thank you, Mr. Chairman, and Members of the Subcommittee. My name is Alan Coyner, and I am the Administrator of the Nevada Division of Minerals. And on behalf of Governor Guinn, allow me to welcome the Subcommittee to the State of Nevada.

Today I will present information from Nevada that I believe exemplifies responsible mineral development. I will also provide information that demonstrates an ongoing concern whether Nevada is competitive in the global competition for exploration dollars. These exploration dollars are critical to the new mineral discoveries that will provide economic stability in the future for Nevada, and especially to our rural communities.

It's worth repeating, Nevada is the Nation's leading producer of hard rock minerals. We lead the United States in gold, silver and several other mineral commodities. Mining is our State's second largest industry with a total value of mineral production in 2002, of approximately \$2.8 billion, with precious metal production accounting for 2.5 million of that total.

The 7.7 million ounces of gold that poured from Nevada's mines in 2002, makes us the third largest producer in the world, behind only South Africa and Australia.

Our major producing region, the Carlin Trend, has surpassed 50 million ounces of total gold production, a record equaled only by four other mining districts on this planet. With Nevada's vast mineral endowment, clearly the future of hard rock mining in this country and the future of Nevada are inextricably entwined.

Responsible development and modern mining are synonymous. Reclaiming the land after mining has ceased is now standard practice, and has been for many years. For the past 13 years, the Governor has presented the Nevada Excellence in Mine Reclamation Awards, and during that time, recognized 45 projects and three individuals for outstanding accomplishments in restoring and preserving Nevada's environment. The rewards are given cooperatively by state and Federal agencies, making the selection process a true collaboration.

Many of the projects are unique in the United States, if not the world. Each year the regulatory bar that defines above and beyond reclamation performance standards has been raised, and each year Nevada's mining industry has responded with ever higher levels to commitment to excellence and mining reclamation.

At this very time, as you've heard, several Nevada projects are being considered for the first BLM National Hard Rock Mineral Environmental Awards, and I am hopeful that a Nevada project will be selected.

Economic stability in hard rock mining would seem to be incompatible. Most maps of Nevada show many places labeled "sites," which are, in reality, mining ghost towns, places where people lived and worked but moved on when the ore ran out. If ore bodies are

finite and mines have lives, how can mining provide economic stability?

The answer to that question can be approached from many aspects, but I will focus on one. The continuation of economic stability, therefore sustainability, relies heavily on the discovery and development of new mines. New mines are found through the investment of exploration dollars in search of new ore bodies. And Nevada is in a global competition for exploration dollars.

The Division of Minerals tracks exploration activity in Nevada through filings made by mining companies in the state mine registry. Two of the main indicators of activity are exploration expenditures and the number of active mining claims held by companies and individuals.

In 2002 respondents to the survey reported spending 64.6 million in Nevada. While this number is up slightly from 2001, it is significantly less than the 154 million reported in '94. Over the past 7 years, Nevada's largest mining companies have spent, on average, less than 20 percent of their exploration dollars in this state, sending nearly all of the remainder overseas.

Mining claims in Nevada peaked at 425,000 in '91, and have declined steadily ever since. A one-time loss of approximately 200,000 claims occurred in '93 after the enactment of a Federal mining claim maintenance fee. The 100-dollar fee per claim paid annually by Nevada miners continues to flow to the Federal Treasury. It is not shared with the state of origin, like other mineral fees, and could be put to a more productive use, such as the reclamation of historic Nevada mine lands.

Active claims in Nevada reached a 25-year low, of 88,124 in 2002; and nationwide, claims dropped below 200,000 for the first time since BLM began publishing claim records in 1978. Simply put, fewer claims means less activity, and less activity means fewer discoveries. That, Mr. Chairman, directly impacts the economic stability of Nevada.

Recent increases in the price of gold have led to renewed optimism among exploration companies and individual prospectors. Early reports for 2003 claim data indicate the downward trend has stabilized or even reversed. Hopefully this will translate into a resurgence of exploration and in mineral development in Nevada. However, constant vigilance is required. Burdensome mining fees, duplicative regulations and unnecessary permit delays lead to economic instability, not stability. We are in a global competition for responsible mineral development, and Nevada cannot afford to fall behind. Thank you.

Mr. POMBO. Thank you.

[The prepared statement of Mr. Coyner follows:]

**Statement of Alan R. Coyner, Administrator,
Nevada Division of Minerals**

Thank you, Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify today regarding the role of the hardrock mining industry in the responsible development of our domestic mineral resources and the economic stability afforded by mineral development. My name is Alan Coyner and I am the Administrator of the Nevada Division of Minerals, and on behalf of Governor Guinn, allow me to welcome the Subcommittee to the State of Nevada.

The theme for this hearing is very much in keeping with the division's mission, which is to further the responsible development and production of Nevada's mineral

resources to benefit and promote the welfare of the people of Nevada. Today I will present information from Nevada that I believe exemplifies responsible mineral development. I will also provide information that demonstrates an ongoing concern whether Nevada is competitive in the global competition for exploration dollars. These exploration dollars are critical to the new mineral discoveries that will provide economic stability in the future for Nevada, and especially to our rural communities. It is entirely appropriate that this hearing be held in Nevada, the Nation's leading producer of hardrock minerals. We lead the United States in gold and silver production, as well as barite, lithium and magnesium compounds, and several other mineral commodities. Mining is our state's second largest industry, with a total value of mineral production in 2002 of approximately \$2.8 billion. Precious metal production accounted for about \$2.5 billion or 90% of that total. The 7.7 million ounces of gold that poured from Nevada's mines in 2002 makes us the third largest producer in the world, behind only the countries of South Africa and Australia. Our major producing region, the Carlin trend, surpassed 50 million ounces of total gold production in 2002, a record equaled by only four other mining districts on the planet. With Nevada's vast mineral endowment, clearly the future of hardrock mining in this country and the future of Nevada are inextricably entwined.

Responsible development and modern mining are synonymous. Reclaiming the land after mining has ceased is now standard practice and has been for many years. For the past 13 years the Governor has presented the Nevada Excellence In Mine Reclamation Awards and during that time recognized 45 projects and three individuals for outstanding accomplishments in restoring and preserving Nevada's environment. The awards are given cooperatively by the Nevada Division of Minerals, the Nevada Division of Environmental Protection, the Nevada Division of Wildlife, the Bureau of Land Management, and the United States Forest Service, making the selection process a true collaboration. Many of the projects are unique in the United States, if not the world. Each year the regulatory bar that defines "above and beyond mandated reclamation performance standards" has been raised, and each year Nevada's mining industry has responded with ever-higher levels of commitment to excellence in mine reclamation. At this very time, several Nevada projects are being considered for the first BLM National Hardrock Mineral Environmental Awards, and I am hopeful that a Nevada project will be selected.

If responsibility includes leadership, Nevada's mining industry again sets the standard. Annually over the past five years, approximately \$100 million in taxes of various types have been paid by the Nevada mining industry, and a substantial portion remains in counties where the mines are located. Whether it is donations to the McCaw School of Mines in Henderson, where schoolchildren can have an underground mine experience, or help for the Elko Little League in the heart of mining country, Nevada's miners strike pay dirt for leadership in civic responsibility.

Economic stability and hardrock mining would seem to be incompatible. Orebodies, which is rock from which a valuable constituent, usually a metal, can be profitably extracted, are finite. In fact, most maps of Nevada show many places labeled "sites," which are, in reality, mining ghost towns. Places where people lived and worked, but moved on when the ore ran out. If orebodies are "finite" and mines have "lives," how can mining provide economic stability?

The answer to that question can be approached from many aspects, but I will focus on one. The continuation of economic stability, and therefore sustainability, relies heavily on the discovery and development of new mines. New mines are found through the investment of exploration dollars in search of new orebodies, and Nevada is in a global competition for exploration dollars. For the past 9 years, the Division of Minerals has tracked exploration activity in Nevada through filings made by mining companies to the state mine registry. Two of the main indicators of activity are exploration expenditures and the number of active mining claims held by companies and individuals. In 2002, respondents to the survey reported spending \$64.6 million on Nevada exploration activities. While this number is up slightly from 2001, it is significantly less than the \$154 million reported in 1994. Over the past seven years Nevada's largest mining companies have spent on average less than 20% of their exploration dollars in the state, sending nearly all the remainder overseas.

The other major indicator of activity is the number of active mining claims. Mining claims in Nevada peaked at 425,000 in 1991 and have declined steadily ever since. A one-time loss of approximately 200,000 claims occurred in 1993 after the enactment of a Federal mining claim maintenance fee. The \$100 fee per claim paid annually by Nevada's miners continues to flow to the Federal Treasury. It is not shared with the state of origin like other mineral fees, and it is not put to a productive use, such as the reclamation of historic abandoned mine lands. According to BLM's Public Land Statistics, active claims in Nevada reached a 25-year low of

88,124 in 2002, and nationwide claims dropped below 200,000 for the first time since BLM began publishing claim records in 1978. Simply put, fewer claims means less activity, and less activity means fewer discoveries. That, Mr. Chairman, directly impacts the economic stability of Nevada.

Recent increases in the price of gold have led to renewed optimism among exploration companies and individual prospectors. Early reports for 2003 claim data indicate the downward trend has stabilized or even reversed. Hopefully this will translate into a resurgence of exploration and mineral development in Nevada. However, constant vigilance is required. Burdensome mining fees, duplicative regulations, and unnecessary permit delays lead to economic instability, not stability. We are in a global competition for responsible mineral development, and Nevada cannot afford to fall behind. Thank you.

Mr.POMBO. Dr. Dobra?

STATEMENT OF JOHN DOBRA, DIRECTOR, NATURAL RESOURCES INDUSTRY INSTITUTE, UNIVERSITY OF NEVADA, RENO

Dr. DOBRA. Yes, sir. Thank you for having me here, Mr. Chairman. And some of what I've got in my prepared testimony repeats some of the things that Alan has said, so I'll skip around a bit.

But every year I prepare a presentation for the—an overview of the industry, its economics. And the way I began this year was by noting that 2002, in the first half of this year, generally being very good years for the mining industry if for no other reason than the price of gold starts with a three. Because we had gone through four years where the price was down for various reasons, and was finally starting to recover in 2002. The price averaged \$310 the first half of 2003, the price averaged about \$350, and it currently sits around \$380.

In terms of what that does for the health of the industry, really can't be understated. It's tremendous. You heard Mr. Coyner talk about increases in exploration activity, and he at one point—I wanted to reiterate that he made—is that, even though we see exploration activity up, it's still well, well below the levels that it attained in the early '90s before regulatory reform and the Millsite Opinion and all these other things came about.

In spite of that generally good trend, we have some concerns. First of all, our production costs are rising significantly. Goldfield Mineral Services is a worldwide noted expert on mineral economics. They pointed out in their 2003 report that in a matter of a few short years, Nevada has gone from the cheapest place to produce gold in the world to the most expensive, and that refers to production costs averages.

There are a number of reasons for that. One is the decline in ore grades. That's the result of going through a period of time where, in order to survive, the mines had to choose the highest-grade ores to drive their costs down. Those have now been depleted and so now our ore grades are falling, which raises our costs.

Another significant issue is energy costs. Goldfield estimates that our—well, our costs went from \$179 average per ounce in 2001 to \$206 per ounce in 2002. Excuse me. I said that wrong. 2001 to 2002. Probably half of that increase in production costs came from energy alone, the price of diesel and electricity. So there's definitely an issue that needs to be addressed.

Another significant issue is what you've heard about already, so I'll be brief about it, is the rise in insurance and bonding costs. That's been significant. We've had surety companies go bankrupt and leave, at least in one case, a mine without coverage and in violation of its permit due to no fault of their own. So the insurance industry is a significant issue.

And the third factor we talked about, as well, is that we—we face this un-- sort of unending process of appeals and litigation every time a permit is issued. Our—those delete the mine's overhead costs. And we saw in 2002, overhead costs of production rise about 30 percent. So that's a significant increase in costs, and what attributes our rise in costs to.

Finally, I guess I should say that the bottom line is that Nevada mine managers have to go to their bosses and present claims that are being competitive for the use of capital with other places in the world. And to keep Nevada competitive, we need to address those three main issues. Thank you.

Mr. POMBO. Thank you.

[The prepared statement of Dr. Dobra follows:]

Statement of John L. Dobra, Ph.D., Director, Natural Resource Industry Institute, Associate Professor of Economics, University of Nevada, Reno

2002 and the first half of 2003 were generally good for Nevada's mining industry if, for no other reason than for the first time in four years, the annual average price of gold started with a "3." After averaging in the \$270 per ounce range for the previous three years, gold averaged \$310 per ounce in 2002 and \$350 in the first half of 2003 and is over \$380 per ounce at the time this testimony is being prepared. This additional \$40 per ounce in 2002 and \$80 per ounce in the first half of 2003 makes an enormous difference in an industry producing around eight million ounces of gold per year. The current price in the \$380-\$390 range is responsible for a significant increase in exploration expenditures as companies seek to expand existing reserves and find new deposits.

Nevada gold mines produced 7.73 million ounces of gold in 2002, down slightly from 8.13 million ounces in 2001. Silver production was also down in 2002 at 13.6 million ounces from 17.5 million ounces in 2001 and over 23 million ounces in 2000. The declines in production of both metals were the result of declining ore grades and mine closures or temporary closures.

In spite of declining production, gross proceeds of Nevada mines (including geothermal and oil production) increased to \$2.7 billion in 2002 from \$2.5 billion in 2001. Approximately \$2.4 billion, or 89 percent, of these 2002 gross proceeds were generated by gold and silver production. Net proceeds of mines also increased in 2002 to \$533.7 million from \$438 million in 2001. This increase resulted in a corresponding increase in Net Proceeds of Minerals tax revenue from \$21.4 million in 2001 to \$25.6 million in 2002, a 20 percent increase. Gold price increases in the first half of 2002 offer the prospect that these revenues flowing to the local and state coffers as well as revenues from other taxes paid, especially sales and use tax and property tax, will reverse their recent course.

Although mining employment has not yet recovered, if prices remain in their current range, we can expect that mining employment will begin to recover. Employment in mining as in the rest of the economy tends to lag behind investment.

Other positive developments that are largely attributable to increasing gold prices are several expansions of operations that are currently in the permitting phase, that is, where operators are currently seeking operating permits from federal and State regulatory authorities. Glamis Gold is seeking permits to expand operations at its Marigold mine in Humboldt County; Newmont is seeking permits to develop its Phoenix deposit in Lander County as well as expanding its operations at Gold Quarry in Eureka County; and Cortez Gold Mines Joint Venture is seeking permits to expand its Pipeline operations in Lander County. In addition, Hecla Mining has entered into an agreement with Great Basin Gold Ltd. to develop Great Basin's Ivanhoe prospect at the north end of the Carlin Trend in Elko County; and Placer Dome has reopened its Getchell Mine in Humboldt County.

In spite of these positive developments, Nevada's gold industry faces some significant technical and regulatory challenges. One disturbing trend in Nevada's gold industry in 2002 was the increase in operating costs. The weighted average cash cost per ounce for mines in Nevada increased from \$179 per ounce in 2001 to \$206 per ounce in 2002, a \$27, or 15 percent, increase. Gold Fields Mineral Services (GFMS) estimates that energy cost increases for diesel fuel and electricity alone account for between \$5 and \$10 per ounce of this increase.¹ Other factors raising Nevada producers' costs have been declining grades in older operations and the shift from open-pit surface mining to more costly underground mining. Approximately 27 percent of 2002 Nevada gold and silver production came from underground mining compared to 20 percent in 2001 and that trend will continue for the foreseeable future.

All of these factors, as noted by GFMS, have resulted in U.S. and Nevada producers going from among the lowest-cost producers to the highest-cost producers in the world.

Nevada's gold producers face other challenges that have a bearing on production costs. One of these challenges is the rising cost of insurance for bonding for reclamation expenses. Recent changes in federal regulations have required cash bonds for reclamation for both exploration and operating permits. The problem of rising insurance costs is exacerbated by what some have called a "crisis" in the insurance industry as a result of insurance company stock market losses and the rising costs of lawsuits in various industries.

However, it should be noted that bonding for exploration is, on the whole, a reasonable requirement and the industry has generally supported it. In the case of bonding for exploration, the cash amounts are generally small because of the small scale of disturbances. The main problem, particularly for smaller operators, has been delays in getting BLM approval of bond amounts. In the mining business, like other businesses, time is money and these delays add to project costs.

Another problem facing the industry is the rising costs of legal action in the permitting process for operators. Environmental groups are routinely challenging applications for virtually all permits in the administrative process and then, if permits are granted, they file suits against the State and Federal agencies responsible for issuing permits. These actions tie up development plans and, like insurance costs, add to operators' overhead costs. In most cases these appeals are rejected and lawsuits are either lost or dropped. The appeals and suits are simply attempts to slow exploration and mine development and, in my opinion, constitute an abuse of the NEPA process.

The increase in Nevada operators' overhead costs in the past year has been as notable as the increase in cash operating costs noted above. In 2001 cash operating costs, as noted above, were \$179 per ounce, and total costs were \$226 per ounce, indicating non-cash costs of \$47 per ounce. In 2002, cash operating costs were \$206 per ounce and total costs were \$266 per ounce, indicating non-cash costs of \$60 per ounce, a significant 28 percent increase in non-cash costs.

Nevada producers ended 2002 with approximately 69 million ounces of proven and probable gold reserves, which is gold contained in ore that can be mined at a profit. This is down slightly from year-end 2001 reserves of 72 million ounces but suggests that all but three million of the 7.73 million ounces produced in 2002 were replaced by exploration and discovery of new ores. The increase in exploration spending in the State reported by the Nevada Division of Minerals from \$51.2 million in 2001 to \$64.6 million in 2002 along with higher gold prices make it likely that Nevada's reserve base will increase in the future. While this trend is favorable, total exploration expenditures still lag far behind expenditure levels in the early 1990's when they were over twice the 2002 level.

These industry developments clearly show that Nevada's minerals industry is seeing a reversal of a downward trend over the last five years that has been an economic challenge. In general, the Nevada mining industry is realizing a healthier bottom line at many operations, especially for producers of precious metals. The North American precious metals industry has worked its way through the difficult period of the late 1990's and is in much healthier financial condition. Nevada remains a major player in the world gold industry. Moreover its large reserve base and existing capital investment make it likely that it will remain a major player for the foreseeable future.

Nonetheless, the bottom line is that Nevada's mineral industry has to compete for exploration and development capital with other parts of the world. North American mine and exploration managers have to convince their bosses to sink scarce capital into Nevada rather than other parts of the world. For this investment to continue,

¹ Philip Klapwijk, et al., Gold Survey 2003, Gold Fields Mineral Services Ltd., London, April 2003, p. 45.

the industry, with the assistance of public policymakers, need to find solutions to problems like high energy costs, access to bonding for reclamation, delays in permitting, and abuse of the NEPA process.

Mr. POMBO. Mr. Gibbons.

Mr. GIBBONS. Thank you very much, Mr. Chairman. And to Mr. Coyner and Dr. Dobra, again, welcome to the Committee. It's a pleasure to see you. We've had many times where we've met and had conversations on all of these issues in the past, and I appreciate you bringing them forward to this Committee.

Dr. Dobra, you spoke about production costs, including the decline in ore grade, the energy costs. We're anticipating an energy shortfall in the western part of the United States this fall. Do mining companies actually predict what their costs are going to be? Do they buy in advance as they would in futures? How do they adjust for that rise? For example, in the natural gas costs which is going to spike this winter, which will then have an effect on the electrical energy that's supplied to them in terms of costs which go to their milling processes, how do they adjust for that? Because we're talking about a fixed commodity here in price. I mean, the mining company doesn't produce an ounce of gold and present it to the market and say, "This is what you will have to pay for it." They're stuck, are they not, with a commodity price, and have to deal within that commodity to make a profit?

Dr. DOBRA. Yes, that's correct, they have no control over price, but there are strategies for controlling costs, and I think most of the companies do it, which would be going into the futures market and purchasing, you know, options to buy fuel oil, natural gas, in advance.

Unfortunately, there is not a good market for that, like electricity itself, but, you know, if you have contracts to acquire fuel, oil, and so forth, those generally go up in value when the price of electricity goes up. So they—they're able to offset some of that increase in costs through ledgering.

Mr. GIBBONS. Mr. Coyner, you mentioned the abandoned mines program in the State of Nevada. How is that progressing? I know there's a number of abandoned mines which are problematic both to the safety and to the environment from historical practices as far back as the 1860s in this State. What is the State of Nevada doing to address the abandoned mine problem?

Mr. COYNER. OK. Thank you, Mr. Gibbons. Let me phrase my answer in two ways, first with the physical hazards and the second with environmental hazards.

With regard to physical hazards, we still have a very progressive program in this state. We are probably the leading state with regards to addressing those, with the help of many partners, including the Nevada Mining Association and the BLM.

We currently have about 10,000 of those sites identified, and about 7,000 of them secured. That is funded through a fee that is levied on mining claims. So as you saw in my testimony, it was reflected in there, I have quite a concern over the drop in mining claims, because that impacts my ability to get my job done with securing physical hazards in the State. We continue to put every effort and resource we can to that problem.

Let me say next about the environmental hazards, the State of Nevada has been quite progressive there, too, in terms of forming an environmental task force comprised of 12 State and Federal agencies to begin to address this problem in Nevada. Because, as you know, we are not a coal mining state, we receive no SMCRA, Surface Mining Reclamation Act, dollars to help with that problem.

We have recently secured some Federal funding with the help of Congressman Gibbons through the Army Corp. of Engineers to begin our work on environmental cleanup at some of our abandoned mine sites.

Mr. GIBBONS. Dr. Dobra, you talked about litigation and appeal. What—what effect does a delay in the permit process have on a mining company's ability to operate, to recover its investment?

And finally, in the brief time that you have to answer this, let me ask you a question, as a professional. Would you support a bonding requirement for those people that appeal if there is damages to, for example, the delay in getting a mine operating?

Dr. DOBRA. Well, from an economic standpoint, a delay of two to three years in getting a permit, basically makes it—makes it very expensive to do business here versus other places where you can get a mine constructed and started in, say, 18 months.

About 10 years ago, a mine here in Nevada discovered an ore body, got its permits and reported its first foray in 18 months. Now it's taking, you know, a matter of a series of years, as you heard from Mr. Abbey.

Mr. GIBBONS. OK. Thank you, Mr. Chairman. And to our witnesses again, thank you.

Mr. POMBO. Mr. Faleomavaega.

Mr. FALEOMAVEGA. Thank you, Mr. Chairman.

Gentlemen, as I said earlier, the greatness of our nation is based on this diversity and so many of its resources and all different aspects of what makes up America as it is, and the reality—and correct me if I'm wrong, Mr. Chairman—I—I represent a constituency that is basically surrounded by the Pacific Ocean. And when we talk about mining among the 50 members of Congress that make up this Committee, it's almost like talking about fisheries. In the same sense of getting the attention of the members in our collective will, if you will, among the members of Congress, it's almost like speaking Greek to other members.

And I know my good friend Mr. Gibbons is constantly faced with this problem in educating other members how important this industry is, just as it is that I have to say that I have the largest tuna canning facility in the world, where we export about \$500 million worth of canned tuna. So I'm a tuna man, as it is to my friend Mr. Gibbons, he's a mining man. Can you see the problem that we're having in the Committee?

And as you mentioned—you know, I'm very impressed that Nevada produces \$2.8 billion—and forgive my ignorance. When you say "hard rock," does this mean you have to crack the rock to get the minerals, or can it be dug up in dirt? Can you educate me on that, Mr. Coyner? When you said, "hard rock production," anything that is mined—that can be mined; is that correct?

Mr. COYNER. I'm happy to, Congressman Faleomavaega. And I'm sure that—tuna comes in metal cans, so there is a relationship there.

When we talk about hard rock mining in the United States, we are generally referring to those minerals that are processed on hard rock mining rather than coal mining.

Mr. FALEOMAVAEGA. OK.

Mr. COYNER. That's sort of the discretionary use of those two terms, and mostly, that is found in the western United States.

Mr. FALEOMAVAEGA. And you mentioned that we're in a global competition, being competitive globally. So when you say that you produce \$2.8 billion worth of minerals in your production, how much is that exported domestically, if I can put it in those terms? I mean, does a great percentage of your production go to foreign countries or do we absorb the mining operation—I mean, absorb it in the sense that we're selling it domestically. It doesn't have to go to other foreign countries.

Mr. COYNER. I would say for most of the mineral commodities in Nevada, they are for internally, in the United States, with the exception of our largest, which is gold, which is 2.5 billion of that total, and by having that amount of gold produced out of Nevada, the United States then becomes a net exporter of that value, which certainly helps with our trade deficit, so most of that gold is exported.

Mr. FALEOMAVAEGA. Because I remember in the 1950s, at least my readings of it, that we were such a self-sufficient country, we didn't need to—to import so many of the resources or minerals and whatever, because we were able to do it domestically. Now we are an interdependent country, especially, as always, the issue of fuel, where 100 percent I think of our fuel at inception has to be imported from foreign countries. I suppose the same problem deals with mining. And so you really don't have that much that you're exporting to foreign countries, it is for local consumption, so to speak?

Mr. COYNER. Other than gold, I would say that's true.

Dr. Dobra, would you care to comment?

Dr. DOBRA. Well, the last time I checked, the U.S. exported about five-and-a-half million ounces of gold per year, so that's, as Mr. Coyner said, that's a significant amount of gold, and it improves our balance of payments.

Mr. FALEOMAVAEGA. And in the trend that you mentioned last year of \$2.8 billion, is the trend decreasing in terms of the production or is it increasing from previous years? I—I am a little—

Mr. COYNER. The total is down slightly from previous years. We peaked at just over 8 million ounces of gold production about three years ago, so we have been declining slightly. Some of that is due to the price, some of that is due to the fact that we are seeing more underground gold production from our State, which generally produces less volume.

Mr. FALEOMAVAEGA. And, Dr. Dobra, you mentioned that all the increases in costs and just about everything and anything dealing with the mining industry, but this is probably true with mostly all the agencies as well, increase in insurance costs if you are a doctor, increase in costs in just about anything. And I was just curious in

terms of when you said there's a tremendous—is it to the point where now, many companies have to file bankruptcy and they can no longer operate, or is it just to say that there are increases, but not to the extent where it's so severe that—that you're facing a very critical situation with the mining industry here in Nevada?

Dr. DOBRA. Well, over the past several years before the price started to rebound, we did see companies go into bankruptcy and forced into mergers and some consolidation as a result of low prices.

As I said in my opening statement, I mean, the biggest news in the mining industry in Nevada is that the price of gold starts with a three, and that—you know, our costs have gone up, yes, but the price has gone up more, so...

Mr. FALEOMAVAEGA. And 60,000 people in the State of Nevada depend for employment—

Dr. DOBRA. It's not quite that many, but it's in the 50 range, yeah, either directly employed or employed in businesses that supply goods and services to the industry.

Mr. FALEOMAVAEGA. Well, I hope we can employ more. Thank you very much, sir.

Dr. DOBRA. Sure.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Mr. POMBO. Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman.

Mr. Coyner, you mentioned you had about 10,000 abandoned mine sites. Can you tell me about your process of prioritization? Are you taking the most hazardous sites? Are you taking the closest? And then, also, how many of those sites have you actually taken care of?

Mr. COYNER. Thank you, Congressman Cannon. Yes, the State of Nevada Legislature has a prescribed methodology for ranking those physical hazards. So our work crews in the field discover the hazards and log them in, inventory them, and take a number of criteria to use to determine how hazardous they are. We then address the most hazardous sites first.

We also keep the County governments informed of the progress of our work. So, again, of the 10,000 or so that we've logged in, we've actually physically secured about 7,000 of those, so we have about a 3,000-site backlog.

The universe of sites is something like perhaps 50,000 sites in Nevada, of a total number of possible sites of perhaps 200,000. We won't know until we visit them whether they're part of that group that will have to be addressed.

Mr. CANNON. Do you mitigate those sites? Do you include in your process of prioritization the cost of mitigation so that, if it's not a very hazardous site but it's cheap to mitigate, you go in and clean those up?

Mr. COYNER. Actually, the cost really isn't too big of a factor unless we choose to backfill the site. Backfilling, they're actually physically filling up the site, which is a fairly permanent solution. As you might expect, it is somewhat more costly. But in terms of the fencing, which is our normal procedure, most of those sites are fenced. The driving force is, how hazardous is it, a vertical shaft versus a horizontal shaft, and so forth.

Mr. CANNON. Have you had any AML funds from the coal mining abandoned mine lands funds at all for that project?

Mr. COYNER. No. The State of Nevada receives no Surface Mine Reclamation Act dollars.

Mr. CANNON. You guys don't have any coal at all?

Mr. COYNER. Well, we've got a little bit of coal down at Coaldale Junction, as Congressman Gibbons knows. We've discussed the possibility of mining just a little bit of it so that we can qualify for those funds.

Mr. CANNON. It would be sort of nice if you could marry Wyoming, which has huge coal dollars and not many sites that need it. Thank you very much. Yield back to you, Mr. Chairman.

Mr. POMBO. I wanted to, Mr. Coyner, you talked about in your testimony, the mining companies that are investing 20 percent of their dollars here and the rest overseas. What's the impact on the United States, in general, of more and more of our infrastructure being located in other countries?

Mr. COYNER. Certainly, taking a very parochial view, a State of Nevada view, those rural communities—and remember, Mr. Chairman, that Nevada is the most urbanized state in the United States. Nearly 2 million residents, nearly 1.4 million of them live in Las Vegas, and really don't know much about mining, maybe .3 or so up here and .2 out there in rural Nevada. And they have a very strong dependence on mining and agriculture for their economies.

So that lack of exploration dollars not flowing into Nevada means fewer motel stays, fewer drillers working, fewer assay labs, fewer bulldozers creating roads to mining claims, it has a very dynamic impact on rural Nevada. The magnitude of that, it's in the hundreds of million of dollars, and it depends on what sort of time-frame you want to look at. But it's been certainly less in the '90s and the latter part of the '90s and the beginning of 2000s, than it has been in the '80s, as we indicated.

Mr. POMBO. Dr. Dobra, I would like to ask you basically the same question, because we had a hearing last week in Southern California, the Lake Arrowhead area, talking about the condition of San Bernardino National Forest. And one of the things that came out in the hearing was that the dead trees that they were taking out of San Bernardino National Forest, they were putting in a landfill because they no longer had a sawmill anywhere near San Bernardino National Forest that was capable of handling the trees that were being taken out of there.

And I—it makes me wonder, when you talk about mining and so much of our investments going overseas and so much of the very infrastructure that the industry depends on being relocated, what's the long-term economic impact on this country of exporting our mining industry?

Dr. DOBRA. Well, the mining industry is a—you know, provides strategic critical materials. Our main output here, gold, is largely viewed as a source of jewelry and most of it does go into that, but it's also extremely important in the electronics industry and so forth.

Losing the ability to mine these resources domestically, you know, in the case of gold is not really that big of a deal, because there's 8,000-plus tons of it sitting in Fort Knox, and a lot more

than that, you know, in other central banks. So we're not really losing a strategic material if we drive it offshore.

But what we are driving offshore are a lot of very high-paying jobs that support people. You know, the average, I believe last year in—for the metal mining industry in Nevada was over a 62,000-dollar job. And so that's a significant factor.

Mr. POMBO. The average was 62,000?

Dr. DOBRA. Yes.

Mr. POMBO. In Rural Nevada?

Dr. DOBRA. Yes.

Mr. POMBO. Which is a significant income?

Dr. DOBRA. Yes. And it compares with under—I want to say—I'm not sure about the number—but I would say maybe \$28,000 on average in this state, in terms of, you know, earnings. So it's a substantial difference, you know, and that does spur economic activity in the rural areas and in the urban areas too, when people come to Reno to shop and so forth.

So it's a small industry. People like to say it's the second largest industry, but if you want—and that's in terms of its export, you know, how much money it brings into the State. But on the other hand, if you look in terms of the number of jobs, it's one of the smallest industries. You have, you know, a very small, highly skilled work force generating a lot of value.

Mr. POMBO. When you talk about the economic factors that are forcing companies to make the decision to locate elsewhere, in your testimony, you talk about the costs of production here versus other states, other countries. Does the permitting process, that bureaucratic process and the delays, is that the number-one factor in driving up costs?

I mean, if you look at the immense amount of money that's necessary today to start a new mine and the possibility of being delayed four or five years or more before you can start pulling out, then that has to have a major impact on decisions that are made by—by companies.

Dr. DOBRA. Oh, absolutely. You know, you're looking at two comparable resources, in terms of ore bodies, and one is in Peru and one is in Nevada. You're going to get your money back a lot quicker in Peru. And that's what financial planners demand of their investments.

So this, you know, these delays, you know, significantly tilt the field—the field against us. We're still seeing development, mine development expansion in Nevada, because we've got the capital here already. So developing comparable ore bodies in Chile versus Nevada, you have to—you know, Nevada still has some advantage. But still, if you try to go into a whole new property, you're looking at—you know, the delay seriously discourages investment here.

Mr. POMBO. But if you have a company or a—yeah, if you have a company that looks at Chile and the government of Chile says you can be extracting ore in 12 months, and they look at Nevada and they say it's going to be five years if we're lucky, that is—that has to be a deciding factor in terms of moving some of that highly skilled labor and that investment out.

Dr. DOBRA. Oh, absolutely. There's no question about it. And that's why—you know, Mr. Coyner mentioned that only 20 percent

of exploration dollars are being spent here in the U.S., in Nevada, in particular. If you went back 10 years, it would be—that number would have been more like 50 percent. I mean, these companies want to do business here because, first of all, it's their home, and we've got a rule of law and all the advantages, you know, that you can think of, that's here. But, you know, when you are looking at 12 months versus 5 years, that radically changes the economics for an investor.

Mr. POMBO. Finally, I would just like to—and either one of you can answer this if you—if you can. And I don't know how familiar you are with the mining industry in other countries. I have had an opportunity to see the mines, some of the mines in, like South Africa and South America.

What are some of the differences in terms of environmental standards and health and safety standards in the mines in other countries versus what we have here in this country?

Mr. COYNER. Mr. Chairman, with all due respect, you'll be hearing from an international mining company later today, and they can certainly answer that question better than I can.

Mr. POMBO. Well, I'll save it for them then.

Dr. DOBRA. I would like to add, though, that, you know, most countries around the world require that operators going in will meet or exceed U.S. Environmental Standards, and it's generally a condition of the financing. If you go to a bank and ask them for \$200 million to put a mine someplace, they're going to say, "OK, fine, but you've got to meet or exceed U.S. Environmental Standards because we don't want to get sued and lose our money."

So I think there's significant differences, particularly historically, between labor standards and environmental standards, you know. But anymore, companies going abroad aren't really fleeing environmental or human health and safety regulations, they're the same.

Mr. POMBO. Well, I won't debate with you as to whether or not they're the same, but I've been through mines in this country and I've been through mines in other countries and they're not the same. Their standards may be the same, but the level of enforcement may be a little different.

Dr. DOBRA. That's very true.

Mr. POMBO. Thank you very much for your testimony.

Mr. FALEOMAVEGA. Mr. Chairman, I just have one quick question.

Mr. POMBO. Sure.

Mr. FALEOMAVEGA. I'm sorry. I know that we're limited in time.

I just wanted to ask Mr. Coyner, how many—what's the total number of mining companies that do business here in Nevada? And what percentage of that is foreign? And also, I would like to know what—are there any mining companies owned by Native American companies?

And if you don't have the answer, we'll just let you submit that for the record. I would like to—

Mr. COYNER. I can certainly come up with finite answers for all of those at a later date, but off my cuff, which I will do as well, the number of mining companies actively producing in this state of major consequence are somewhere around 20, depending on where

you draw your cutoff, and depending on whether you are talking about metal mining or nonmetal mining.

As to the question of how many are foreign-owned, very few, if any. Because, as is commonly known, most of these companies are publicly traded. So if you in fact own any large mutual fund, as I do, you are a participant in owning part of the gold mining industry in Nevada.

Mr. FALCOMAVEGA. When you say very few, two or three; correct?

Mr. COYNER. Yes, perhaps. And I would say those are more actively involved in exploration activities in this state right now rather than production.

Mr. FALCOMAVEGA. Thank you. Thank you, Mr. Chairman.

Mr. POMBO. Thank you.

Mr. POMBO. I would like to call up our third panel, Mr. Russ Fields, President of the Nevada Mining Association; James A. Chavis, Vice President, U.S. Government Relations, Placer Dome America; and Dr. Tony P. Taylor, President and CEO of Millennium Mining Company. Would you raise your right hand.

[Witnesses sworn.]

Mr. POMBO. Thank you. Let the record show they answered in the affirmative.

Mr. Fields, I'm going to begin with you.

STATEMENT OF RUSS FIELDS, PRESIDENT, NEVADA MINING ASSOCIATION

Mr. FIELDS. OK. Thank you, Mr. Chairman, Members of the Subcommittee. My name is Russ Fields and I'm president of the Nevada Mining Association. On behalf of our 300-plus members, I appreciate the opportunity to testify here today before you, and also thank you very much for coming to our state to hear of these issues.

My focus today will be on my suggestion for land transfers as a possible means to address the potential problems that we've all heard about this morning. Many of these concerns can be addressed by land transfers.

With close to 90 percent of the land in Nevada being managed by the Federal Government, Nevada is at an economic disadvantage compared to the other 49 states. It has a smaller property tax base with which to pay for services it provides to its growing population. In fact, it is the fastest-growing population in the United States for over the last decade.

Among the 48 conterminous states it has the smallest percentage of private-land base from which to launch any expansion of its economy. And due to the large amount of public land, it has an ever-growing stream of Federal regulations that limit conditional economic development, such as ranching and mining on these lands.

Although regulatory reform would provide some relief, it usually is slow and somewhat ineffective. On the other hand, the sale of certain Federal lands directly to the private sector through direct congressional legislation is neither slow nor ineffectual. For example, the proposed sale of public lands in Northeastern Nevada found in H.R. 2869, called the Northern Nevada Rural Economic

Development and Land Consolidation Act of 2003, sponsored by Congressman Gibbons, will immediately place much-needed land in the property tax base of various Nevada counties. It will also streamline a duplicative Federal/State permitting process.

Mining is important to Nevada, especially to the rural communities that depend on the development of natural resources for their livelihoods, a livelihood that, by the way, provides many of the raw materials that sustain this country's overall quality of life.

You've already heard that mining provides these communities with very high-paying jobs, nearly twice as high as the State's average. These jobs in turn, of course, pay for homes, they buy food, goods and services, and these all generate tax revenues for both the local and State government.

A key component to the economic stability of rural Nevada is the sustainability of the mining industry. In Nevada, nothing is more critical to sustainability than access to public lands for exploration that will eventually lead to the replacement of mined-out reserves. Yet duplicative regulations at the Federal and State level, unsubstantiated delays in the issuance of permits for exploration and development plans and arbitrary limits on access to lands, cumulatively tend to drive exploration out of Nevada and, indeed, out of this country.

We are confident that the transfer of public lands like those in H.R. 2869 to private ownership will do much to encourage and facilitate exploration and development.

You've talked about the moratorium and the patenting process. As this Committee knows, that has been nearly at a standstill since 1994. Although we hope it will be lifted soon, there is no viable mechanism to date in which mine operators can obtain private ownership of land, public land. A type of ownership that provides operating certainty is a critical issue for any major, long-term capital investment by a mining company.

Meanwhile, the sustainability of rural communities depends on the continuity of economic development that will fill the void once the mines play out. Yet mines, by their very nature, are rich in industrial infrastructure, and they can play a vital role in post-mining economic development, as long as this residual infrastructure can be utilized by other industries, industrial development that certainly can include, and we think will include in the future, renewable energy projects which hold potential for the State of Nevada.

Most importantly, the transfer of public lands through a non-Federal ownership will place the decisionmaking down at the level with the greatest accountability, which is the elected State officials and their agency appointees. It provides, with the elected State legislature, the opportunity to develop laws and regulations that oversee the activity for the prudent use of this land, land that even in private ownership remains subject to the Federal acts that are so important in the mining industry will always remain subject to, that is, the Clean Air Act the Safe-Drinking Water Act, Clean Air Act, and others that would remain in effect through any delegated State program.

In addition, as evidenced by State and Federal and private awards, mining in Nevada has demonstrated over and over again that it can be a good steward of the land and a good steward of

its people. Besides unshackling the economy of Nevada, additional benefits of these transfers include a reduction in the number of project-by-project NAPO reviews, which lead to many of the delays that you've been discussing this morning, more efficient facilitation of the bonding, unburdening of the regulatory and judicial systems from costly environmental appeals and litigation, and finally, saving State and Federal taxpayers' money.

Now we certainly understand that not all public lands in Nevada would fall subject to consideration for transfer. You notice I said "certain public lands." Those that remain under public jurisdiction by land managers, such as the Bureau of Land Management—which, by the way, does an outstanding job of working through its process. Where it does get hung up is in these appeals that we've been discussing.

But one area that, as Director Abbey mentioned, we are working on is the transfer of some of the authorities that currently reside with the BLM under CFR 43 Section 3809. We're working with both the State and the Federal Government on the delegation of bond cost calculations. We think there's an opportunity to streamline that process.

By the way, Mr. Chairman, since—the revised Section 3809 does provide for such delegation.

Nevertheless, without progressive legislation and continued streamlining of the administrative process that I've called for here in this testimony, these rural communities here in the State of Nevada will find it increasingly more difficult to keep Nevada as the world's largest—third largest producer of gold.

In closing, I urge this Committee to continue its efforts to free up our country's economic engine in a wise and prudent manner, and to support the implementation of current laws like, for example, the Lincoln County Land Act of 2000, and future legislation, as I mentioned previously, H.R. 2869. Both of these facilitate the transfer of public lands into private ownership.

In Nevada, for example, we think this legislation would put control of Nevada's economic future and viability back into the hands of Nevadans. Thank you, Mr. Chairman.

Mr. POMBO. Thank you.

[The prepared statement of Mr. Fields follows:]

Statement of Russ Fields. President, Nevada Mining Association

Thank you, Mr. Chairman and members of the Subcommittee. My name is Russ Fields and I am the President of the Nevada Mining Association. On behalf of the 300-plus member companies that make up the Nevada Mining Association I appreciate the opportunity to testify today regarding the role of the hardrock mining industry in the responsible development of our domestic mineral resources and the economic benefits afforded on all citizens by mineral development. In spite of the existence today of various topics directly affecting hard rock mining in Nevada, my focus today will be on the need for land transfers and the benefits to Nevadans.

With close to ninety percent of the land in Nevada being managed by the federal government, Nevada is at an economic disadvantage compared to the other 49 states. It has a smaller property tax base with which to pay for the services it provides to its growing population; the fastest growing for the past decade. Among the 48 conterminous states it has the smallest percentage of private land base from which to launch any expansion of its economy. And due to the large amount of public lands, it has an ever-growing stream of federal regulations that limit traditional economic development, such as ranching and mining on these lands.

Although regulatory reform would provide some relief, it is usually a slow and somewhat ineffective process. On the other hand, the sale of federal lands directly

to the private sector through direct Congressional legislation is not slow or ineffectual. For example the proposed sale of public lands in northeastern Nevada found in H.R. 2869, "Northern Nevada Rural Economic Development and Land Consolidation Act of 2003," sponsored by Congressman Gibbons, will immediately place much needed land into the property tax base of various Nevada counties. It will also streamline a duplicative Federal/State permitting process.

Mining is important to Nevada, especially to the rural communities that depend on the development of natural resources for their livelihood. A livelihood that by the way provides many of the raw materials that sustains this country's overall quality of life. Mining provides these communities with high-paying jobs. Almost twice as high as the state's average annual wage. These jobs in turn pay for homes, buy food and services, all of which generate tax revenues for both local and state government.

A key component to economic stability is the sustainability of the mining industry. In Nevada nothing is more critical to sustainability than access to public lands for exploration that will eventually lead to the replacement of mined out reserves. Exploration is the lifeline of mining. Yet, duplicative regulations at the Federal and State levels, unsubstantiated delays in the issuance of permits of exploration plans, and arbitrary limits on access to lands cumulatively tend to drive exploration out of Nevada. We are confident that the transfer of public lands, like those in H.R. 2869, to private ownership will do much to encourage and facilitate exploration.

Furthermore, in 1994 the first moratorium against patenting of mining claims was put into place. As this Committee knows, patenting activity has been at a standstill ever since. Although we are hopeful that this moratorium will be lifted soon, there is nevertheless no viable mechanism today for mine operators to transfer public lands into private ownership. A type of ownership that provides operating certainty, a critical issue for major long-term capital investments by mining companies.

Meanwhile, the sustainability of a rural community depends on the continuity of economic development that will fill the void once the mines play out. Yet mines, by their very nature, are rich in industrial infrastructure and can play a vital role in post-mining economic development as long as this residual infrastructure can be utilized to attract other industries. The transfer of public lands to private ownership will facilitate the utilization of this residual infrastructure (i.e., roads, substations, power lines, lakes, etc.) for industrial development. Industrial development, that due to Nevada's climate and topography could include renewable energy farms.

But most importantly, the transfer of public lands into non-federal ownership will place the decision-making process on land use squarely where it belongs, at the local level. It is here where the greatest accountability resides: with the elected state officials and their agency appointees. It resides with the elected state legislature and with the state and local process of constructing regulations and implementing them. Finally it resides with those communities whose very existence depends on the wise and prudent use of the land. Land that even in private ownership remain subject to Federal Acts, such as the Clean Water, Clean Air, Safe Drinking Water, and others that would remain in effect through delegated approved state programs.

In addition, mining in Nevada has demonstrated over and over again that it can be a good steward of the land, and its people. Mining companies in Nevada are recognized annually by both State and Federal regulatory agencies for excellence in reclamation, and for the safety and health of its workers. A number of these companies competed this year for BLM's first national reclamation award.

Besides unshackling the economy of Nevada, additional benefits of these transfers include:

- A reduction in the number of project-by-project NEPA reviews;
- Facilitation of bonding and the eventual releases of reclamation bonds;
- Unburdening of the regulatory and judicial systems from costly environmental appeals and litigation; and
- Saving State and Federal taxpayers' money.

Recognizing that not all public lands in Nevada are currently under consideration for transfer, a second topic I wish to apprise you of is our ongoing effort in Nevada to seek the partial delegation of BLM's responsibilities under section 3809 of CFR 43 Hardrock Mining Regulations dealing specifically in the area of reclamation bond calculations. Like other Federal agency delegations of program primacy to states, this delegation must include the pass through of program funds to the appropriate state agencies.

Efforts to date include the identification of duplicative activities between the State agencies and the BLM that unnecessarily prolong the permitting process, such as the estimation of reclamation costs. Since the state already does most of this work, it would save all parties time and money to have mutually acceptable standard rec-

lamation costs and have only one agency do the calculations. It is anticipated that future opportunities for streamlining the permitting process will be identified, along with additional program delegation.

Nevertheless, without the progressive legislation and continuous streamlining of the administrative process called for in this testimony, these rural communities will find it increasingly difficult to keep Nevada as the world's third largest producer of gold. A strategically important component in the electronics industry, an industry that in turn is of strategic importance to the defense of this nation.

In closing, I urge this Committee to continue its efforts to free up our country's economic engines in a wise and prudent manner, and to support the implementation of current laws like PL 105-263, also known as the "Lincoln County Land Act of 2000," and future legislation, like previously mentioned H.R. 2869, that facilitate the transfer of public lands into private ownership. In Nevada, for example, such legislation would put control of Nevada's economic viability back in the hands of Nevadans.

Mr. POMBO. Mr. Chavis?

**STATEMENT OF JAMES A. CHAVIS, VICE PRESIDENT,
U.S. GOVERNMENT RELATIONS, PLACER DOME AMERICA**

Mr. CHAVIS. Good afternoon, Chairman Pombo, Members of the Committee. My name is James Chavis. I'm Vice President of Government Relations for Placer Dome America. I would like to thank you for holding these hearings here in Nevada and giving the citizens that are dependent upon this industry for a living an opportunity to come and address you.

I moved to Denver—I need to give you a little commercial. I moved to Denver just a couple of months ago out of the State of Nevada, but I had spent over half of my professional career in Elko, Nevada, and I raised three children there, and I educated them in this state, two of whom remain in Southern Nevada and have families there. So I still have a vested interest in this state.

I have submitted a longer and more-detailed statement for the record as per Chairwoman Cubin's instructions, and following is a brief summary of my comments.

Placer Dome has been a major employer in Nevada since 1960. We have almost 800 employees at our operations and exploration offices in Nevada. To offer some indication of the economic impacts of these operations, our gross payroll for 2002 was almost \$40 million. However, the fact that our existing Nevada mines are flourishing, obscures the reality that we and other companies have been operating for the last decade and for a long period of regulatory uncertainty, and we've been saddled with the regulatory burdens within the United States.

Today's hearing is focused on the role of the hard rock mining industry and responsible domestic resource development and economic stability. In northeastern Nevada, especially, at least for the foreseeable future, the hard rock mining industry is a prime source of that economic stability.

The hard rock mining industry depends on worldwide markets and demands for metals. It is also a fact of life in the mining business that the industry and the jobs must go where the resource is, not the other way around. Nevada has many old mining camps that once flourished and died when the metals prices collapsed or when the deposits failed to live up to their promise.

The realities have not changed, but the mining industry is somewhat better equipped to deal with them than we were in the past.

It's a different mining industry and a different time in history. In 1998, Placer was one of the first multinational mining companies to adopt a formal policy guiding global activities and sustainability.

At our operations, we are really committed to the sound environmental practices that leave a chemically, physically and ecologically stable site when the operation is closed. By emphasizing a safe and healthy workplace, we involve our employees and other stakeholders in major decisions that affect the community, and also in providing for investments in education, Public Health and other community causes.

I have included for the record, a copy of Placer's most recent sustainability update, which includes a copy of the company's sustainability policies.

Examples of how the company has worked toward these goals include our 2001 agreement with the Duckwater Shoshone tribe. Our Bald Mountain Mine agreed—operation agreed with the tribe to facilitate a business, growing locally hardened and adapted plants from local seeds in the tribe's greenhouse. These plants were used in reclamation efforts at Bald Mountain Mine. The reclamation has been very successful and has ripened into a larger business whereby our Cortez Mine now buys seedlings from this facility, as do other operations in the State.

We also donated about 32 acres of land, valued in excess of \$100,000, to the Elko County School District in Carlin. We also contributed \$100,000 to the Great Basin College that same year. These are just examples of the types of activities that the mining companies do in rural Nevada and how we help the communities where we work.

Today's industry is more stable and less characterized by the old west boom-and-bust image than ever before. However, every person in Northern Nevada knows that in the past five years, things have been very challenging for this industry. Hundreds of people were laid off, marginal mines have been closed, companies merged or acquired and, in some cases, the companies became insolvent.

Unless today's mines are to be replaced by future mineral development, Northern Nevadans face a very difficult future. A decline in Nevada's hard rock mining industry is not inevitable. Everyone agrees that Nevada is and will remain one of the most promising areas in the world geologically to explore for gold and silver, not to mention other valuable minerals.

However, the total amount expended last year on exploration, around \$60 million, is about half of what it was in 1996. It's difficult to quantify all the reasons for this decreased investment, but it's clearly the result of some of the policies of the prior administrations.

I go into these policies in depth in my written testimony, but I'll quickly list a few of them now for you. The policies include an open hostility toward the mining law, the 3809 Regulations, the Millsite Opinion, as mentioned previously, a slow-down in the permitting process, and a duplication of Federal and state permitting.

To summarize, if the mining industry is to have a significant future as an employer and economic engine in the State of Nevada and the Western United States, these regulatory uncertainties left

over mainly from the prior administration, will have to be addressed and resolved.

The most important of these issues, of course, to our company is, once again, the Millsite Opinion. And if the Millsite Opinion is not reversed and the law on this subject remains unclear, major companies, including Placer Dome, will be reluctant to make future investments in new projects in Nevada or elsewhere in the United States.

We look forward to a clearer, more positive and more settled legal environment in which to operate in Nevada and elsewhere in the U.S. And in the future. I appreciate this opportunity to make our views known. Thank you very much.

Mr. POMBO. Thank you.

[The prepared statement of Mr. Chavis follows:]

**Statement of James Chavis, Vice President of Government Relations,
Placer Dome America, Denver, Colorado**

Good Morning, Chairman Pombo, Congressman Gibbons and other members of the Subcommittee. I am Jim Chavis, Vice President of Government Relations for Placer Dome America. I thank you for holding these hearings here in Nevada, and for allowing the views of the citizens of Nevada to be heard on this important topic. I moved to Denver a couple of months ago, but up until then, I had spent most of my professional life—over twenty years—as a resident of Nevada and an employee of the mining industry. My children were raised and educated in Elko. My two oldest children and their families still reside in the state and as a family, we will always consider Nevada home.

Elko and all of Northern Nevada would be a very different place if it were not for the excellent high-paying and high-tech jobs available here because of the hardrock mining industry. Placer has been a major employer in Nevada since the 1960's, when the Company acquired an interest in the Cortez Mining District. Since then, we have developed the Cortez Mine in 1968, and the Pipeline and South Pipeline deposits. Exploration and development in the Cortez District is being done as a joint venture with Kennecott Minerals. Placer is the operating partner in the venture where we currently employ about 415 workers at the operation. In addition to the large payroll at Pipeline, we will spend about \$7 million this year developing the resource and \$21 million exploring for additional reserves around the existing operations and in grassroots exploration programs. This is one example of the large amounts of money—in payroll and capital investment—that others and we invest in Nevada. A little later I will explain how we spent over four years and \$5.5 million getting our most recent expansion of Pipeline permitted. These kinds of costs and permitting delays are very much a part of our decision-making process about where to invest our money in the future.

Placer also owns and has operated the Bald Mountain Mine in White Pine County, Nevada, since 1983, and currently employs 115 workers at that operation. Finally, Placer acquired the long-operating Getchell Mine in Humboldt County in 1998, but was forced to suspend operations in 2001 because of low gold prices and the need to conduct an aggressive exploration program to define reserves. In April 2003, with significantly improved gold prices, the Company announced plans to restart the Getchell operation and is now doing so. We currently have 250 persons employed at Getchell, up from 57 people just over one year ago. To offer some indication of the economic impact of these three operations, our gross payroll in 2002 for the Nevada operations was almost \$40 million.

Placer also operates the Golden Sunlight Mine in Montana, which just announced an extension on mine-life and production of four additional years. The Company is advancing the Donlin Creek property in Alaska, evaluating the potential for a mine there with a measured and indicated resource of 11.1 million ounces and inferred resources of 14.3 million ounces.

Placer's recent increase in Nevada employment—we now have almost 800 employees at our operations and exploration offices in Nevada—can be attributed to past exploration successes and to the recent increased demand for gold in the world marketplace. However, the employment increase at Placer Dome's mines is not necessarily an indication of the long-term health of the mining industry in Nevada. The fact that our existing Nevada mines are flourishing obscures the reality that we and other companies have been operating for the last decade in a prolonged period of

regulatory uncertainty and regulatory burdens in the United States. The failure of the United States to provide a stable regulatory environment and straightforward permitting process inevitably influences our investment decisions and those of other major companies. However, the significant effects of these decisions are not readily visible in our current operations or those of other companies, because the major investments in these existing operations were already made. The consequences of recent federal mining policy will only become evident in the future, when the expansions of existing mines and the opening of new mines do not occur because the necessary underlying investments in exploration were not made.

Responsible Domestic Resource Development

Today's hearing is focused on the role of the hardrock mining industry in responsible domestic resource development and economic stability. In Northern Nevada, at least for the foreseeable future, the hardrock mining industry is the prime source of that economic stability. I am sure Dr. Dobra will provide more information on the economics of the industry in Nevada, but for starters, the Nevada Division of Minerals estimates that almost 9,000 people were directly employed in the mining industry in Nevada in 2002, and 44,000 people were in jobs providing goods and services to the mining industry. (Nevada Minerals Industry Fact Sheet—2002.) These are high-paying jobs with extensive health, retirement and other benefits. As a personal note, I have seen local families grow up in Nevada's mining industry with two, and sometimes three generations working in the mines and making strong communities.

The hardrock mining industry depends on worldwide markets and demands for metals. It is also a fact of life in the mining business that the industry and jobs must go where the resource is, not the other way around. When a mineral deposit plays out and no more minerals are to be found, there is little to do but close down the operation and move on. The early map of the western United States is blanketed with mining towns that lived with these hard realities. Nevada has many old mining camps that once flourished and then died when metals prices collapsed or when deposits failed to live up to their promise.

These two realities have not changed, but the mining industry is somewhat better-equipped to deal with them than it was in the past. It is a different industry operating in a different time in history.

1. Environmental Protection: In the 19th and early 20th Centuries, little was known about the potential effects of mining wastes on the environment and it was legal and accepted industry practice to discharge process wastewater and tailings untreated onto land and into streams. Modern mining, in contrast, is heavily regulated by federal and state governments, and responsible industry practice now results in protection of water, air and other environmental media throughout the life of the mine, reclamation and closure—including extensive treatment and containment of any waste that is generated. Responsible mining companies maintain a corporate policy that essentially imposes such standards wherever in the world they operate, whether required by law or not.
2. Sustainable Development: Generally, sustainable development means development that is sensitive to the environment, to local residents and indigenous peoples, that share the benefits of the enterprise with these people, and that looks beyond the economic life of the project to longer-term economic development that benefits the community. Placer is working to incorporate sustainable development practices and principles into all of our operations. At Placer's operations, we are focusing on the following:
 - Sound environmental practices that leave a chemically, physically and ecologically stable site when the operation is closed;
 - Emphasis on a safe and healthy workplace;
 - Involvement of our employees and other stakeholders in all major decisions that affect the community; and
 - Investments in education, public health and other important community causes.

In some respects, the goals of sustainable development are more crucial and the needs for them more acute at our operations in developing countries, but we are incorporating these principles into our operations at every one of our facilities, including those in Nevada. Those efforts include:

1. 2001 Agreement with Duckwater Shoshone Tribe: Our Bald Mountain facility agreed with the Tribe to facilitate a business growing locally hardened and adapted plants from local seeds in the Tribe's greenhouse. The plants were to be used in reclamation efforts at Bald Mountain. The relationship has been successful, and has ripened into a larger business in which the Tribe supplies seedlings not only to Bald Mountain but also to Pipeline and to other mining

companies for their operations. In doing business with our neighbors, we aim to make a positive impact in the community that extends beyond the direct economic impacts of employment and capital investment. We see this as investing in the future of people who were in Nevada long before we started mining, and who will remain after our mining operation is successfully closed;

2. Donation of Land to the Carlin School District: We donated about thirty-two acres of land to the School District in 2002 for its various needs. The land is valued in excess of \$100,000; and
3. Contribution to Great Basin College: We contributed \$100,000 to Great Basin College in 2002.

I am including for the record a copy of Placer's most recent Sustainability Update, which includes a copy of the Company's Sustainability Policy.

The economics of the hardrock mining industry over the last several decades has resulted in larger, worldwide companies. This trend has not resulted in the elimination of small companies, but does mean that most small companies focus on exploration and leave the riskier, capital-intensive operations to large companies. These large companies are able to weather adverse financial conditions and low metals prices better than smaller companies could in the past, in part because of their own internal resources and in part because of their access to capital markets and risk management tools (such as hedging contracts, and other derivatives instruments and risk management strategies). Today's industry is therefore more stable, and less characterized by the old West boom-and-bust image, than ever before.

Every person in Northern Nevada knows that the past five years have been very challenging for this industry. Hundreds of people were laid off, marginal mines closed, and companies merged, were acquired, or, in some cases, became insolvent. Throughout this period our Pipeline Mine, the Bald Mountain Mine and other larger projects kept operating, providing much-needed jobs and other benefits to the economy. Imagine a future in Northern Nevada after these and other projects have reached the end of their project lives. Unless today's mines are to be replaced by future mineral development, Northern Nevadans face a very different and difficult future. Unless the federal government stabilizes its policies regarding hardrock mining on federal lands, this will be Northern Nevada's future.

Future Mineral Development In Nevada

A decline in Nevada's hard rock mining industry is not inevitable. Everyone agrees that Nevada is, and will remain, one of the most promising areas in the world geologically to explore for gold and silver, not to mention other valuable minerals. The Nevada Division of Minerals' Ninth Annual Nevada Exploration Survey 2002 shows that exploration budgets are up across the board, and there is increased optimism in the industry about future exploration prospects. This optimism clearly results in part from the improved gold prices of the last 18 months. However, it is also the case that the total amount expended last year on exploration—about \$60 million—is half what it was in 1996. Mining companies are spending much less than they used to in Nevada to find new resources.

Nevada's experience is not unique. In general for public lands in the United States, since 1997, both exploration for new minerals and mine development on discovered minerals have all declined substantially:

1. Notices filed with the BLM for exploration on public lands have declined by 70%;
2. Exploration spending in the U.S. has dropped by 66%;
3. New mining claims have declined by 74%;
4. Plans of operations for new mines and expansion of existing mines have declined by almost 60%; and
5. Investment in exploration and mine development has in many cases shifted overseas.

It is difficult to quantify all the reasons for this decreased investment, but some of it is clearly the result of the policies of the prior Administration, which was openly hostile to the General Mining Law of 1872, the law that governs mining on public lands. These policies included:

1. Open Hostility to the Mining Law:
 - The Clinton Administration attacked the longstanding General Mining Law and lobbied Congress aggressively for its repeal or reform;
 - The Department of Interior refused to carry out its legal duties under the law, most dramatically illustrated by its refusal to issue mineral patents to a Nevada gold producer that by all accounts had earned the patents under federal law. The Department finally had to be ordered by a federal court to issue the patents;

- In an attempt to restore stability, the mining industry united behind a reasonable reform proposal that included royalties and restrictions on privatization of federal land, and which was enacted by Congress. President Clinton vetoed the measure; and
 - The struggle in Congress lasted for years and continues, rendering uncertain the stability of investments in the U.S. under current rules.
2. 3809 Rules: In 1997, Interior proposed sweeping changes to the rules that govern access to public lands for exploration and mining operations. By Interior's own admission, the rules were intended to accomplish "administratively" what Congress refused to do legislatively. Interior's rules were adopted at the end of 2000; fortunately, Secretary Norton made targeted revisions to the rules that removed the most onerous and most legally questionable of their provisions, notably the so-called "mine veto."
 3. Millsite Opinion:
 - In 1997, the Interior Solicitor issued a legal opinion purporting to overturn an important longstanding interpretation of the Mining Law. Simply stated, Interior has long read the Mining Law to permit the location on federal lands of "millsites" next to mining claims so that minerals can be milled and processed. Traditionally, Interior has allowed the location of as many millsites as necessary to conduct the operation. As ore grades have decreased and improved mining techniques have allowed greater recovery from lower grades of ore, the amount of material to be processed and disposed of in accordance with today's environmental regulations has increased dramatically, and the number of millsites located by companies has increased correspondingly. In the Millsite Opinion, the Interior Solicitor claimed this practice was illegal, reading the Mining Law to limit the number of millsites to 1 per each valid mining claim;
 - The effect of this ruling on Placer was dramatic because it threw the claims required for the Pipeline Project into question and provided project opponents one of their main issues for the pending appeal; and
 - More importantly, the opinion endangers the practicability of any future project on public lands, because there is no way such a project could be situated on the number of millsites that would be allowed if the Leshy Millsite Opinion remains in place. This is a very important issue for Nevada.
 4. Slowdown in Permitting: The regulatory process during the Clinton Administration drastically slowed down mine and exploration permit approvals, delaying and, in some cases, endangering the viability of new projects. In the case of our Pipeline Project, the original federal approvals took four years, even though the operation was to be constructed and operated adjacent to a process facility that had existed for twenty years and in a district that has been mined since the end of the 19th Century. A subsequent expansion proposal, first submitted in 1996, cost over \$5 million and again took four years to approve, and is still under appeal at the Interior Board of Land Appeals.
 5. Duplication of Federal and State Permitting: Operations on federal lands are subject to both federal land management and state laws. In the past, federal and state governments have made some effort to work together and reduce duplication and burdens, but this cooperation lagged significantly during the Clinton Administration. A hallmark of this failure to work together was the proposed 3809 rule I just described. In that rule, Interior proposed to repeal the existing regulatory relationship that stressed compliance with existing state laws, replacing it with one in which the federal government dominated to the exclusion of the views and wishes of state regulators. This aspect of the 3809 rules was strongly opposed by industry and by state regulators, and, fortunately, was withdrawn by Interior. Still, the dual levels of regulation exist, and it remains a challenge for federal and state regulators to work together to minimize regulatory burdens.

To summarize, if the mining industry is to have a significant future as an employer and economic engine in the State of Nevada and the western United States, these regulatory uncertainties left over mainly from the prior Administration will have to be addressed and resolved. The most important of these issues left to resolve is the Millsite Opinion. If the Millsite Opinion is not reversed and the law on this subject remains unclear, major companies, including Placer, will be reluctant to make future investments in new projects in Nevada or elsewhere in the United States.

Placer Dome's Future in Nevada

Like every other major mining company in the world, Placer Dome is an international company, with mines and projects in South and Central America, Canada, Africa, Asia and Australia, in addition to its mines in the United States. Placer is committed to its operations in the United States and to its employees here, and continues to budget significant resources for Nevada exploration. An important part of our annual exploration budget is expended on our "Minex" program, in which we explore for minerals at or near our existing operations. It is Minex expenditures that have expanded the reserves and prolonged the life of the Pipeline Operation, and that have enabled us to reopen the Getchell mine. Placer's worldwide budget for exploration in 2003 is \$60 million, with \$36 million of that going to the Minex program. Of our total exploration budget, \$21 million will be expended in the United States. Over the last 10 years, Placer has spent over \$180 million in the U.S. in exploration leading to the discovery of Pipeline, plus expansions at Bald Mountain Mine and the Golden Sunlight Mine in Montana.

Like other companies, Placer's Nevada growth is happening primarily at existing properties. As explained above, it makes sense to focus exploration efforts where you can use existing processing facilities rather than build new ones, so to us this strategy is just good business. However, it also reflects in part the reality that new projects are enormously expensive and difficult to develop and build with uncertain permitting. We must choose to direct scarce exploration capital to places where it promises to yield the most financial benefit for the Company at the least risk. When we decide where to explore, we must reckon with the fact that there is now significantly more political risk in the United States than existed when we made our investments in Bald Mountain, Pipeline and Getchell. Whether we explore and develop new projects in Nevada will depend on a complex calculus of factors that include metals prices, the status of the Mining Law, the Millsite Opinion and related legal precedents, and the difficulty and length of federal and state permitting processes.

We are, above all, committed to being good corporate citizens in Nevada and wherever we operate. Placer looks forward to a clearer, more positive and more settled legal environment in which to operate in the United States in the future. I very much appreciate this opportunity to make our views known.

Mr. POMBO. Dr. Taylor?

**STATEMENT OF TONY P. TAYLOR, PRESIDENT AND CEO,
MILLENNIUM MINING CORPORATION**

Mr. TAYLOR. Yes. Thank you, Mr. Chairman, and the Committee Members for this opportunity to assist in your deliberations. My name is Tony Taylor. I'm president of a home-grown exploration company called Millennium Mining, which we've developed over the last five years here in Reno.

So we're an exploration company. We recently completed a reverse takeover of a Canadian public company called Gall Summit Mines, and raised \$1.6 million for exploration, which at the moment we're going to choose to spend in Nevada, although I must say, having heard some of the—some of the things today, I—I wonder whether that's a wise decision.

I am—I've been in the exploration business for almost 40 years around the world, many commodities in many countries. And so I represent what is known as the junior mining sector, and an endangered—an endangered species of the mining industry, which is the profession of exploration and geology.

I make this point in that—that the minds of money and the ability to work in places like Nevada has had a serious impact on our profession. There aren't many of us left in the world. At any rate, I wanted to get this opportunity to get that point over.

Now the junior mining sector raises high-risk money for exploration. Now, the majority of that money is raised through

Canadian institutions, and it's spent worldwide. So to explore in Nevada, we have to go and raise money with the help of the Canadians, who understand much more, the business of mining. It's a very important part of their economy.

So having raised the money, we choose to explore in Nevada because—because of what I believe to be the almost unlimited geological potential, particularly for high-grade underground—for high-grade veins, which are going to be mined from underground, which is the future of mining in Nevada. We've already heard that something like 30 percent of the production is coming from underground mines. This percentage is going to increase, and this is where the future is in Nevada.

So we come here because of it's good geology, an excellent infrastructure, roads, and—and now, a lot of mining infrastructures, mills and so on, that you can take your ore to, a productive and well-trained work force. The U.S. has a stable political climate in contrast, say, to Peru, which is a country we heard about earlier. And there's a long-established mining code and regulations, which we've heard discussed.

However, there are some negative aspects. I think I would say—I would determine as a confusing interaction between Federal and state agencies, which we've heard some examples of. And I have given you a brief example in my written testimony to—to make the point that, you know, we—we never really know where these interactions will affect us.

So in summary, miners are responsible people and we are working to provide mankind with essential minerals for living. It's not a matter of choice, these are essentials, and it's not necessarily space-age materials. I like to use the example of sheetrock in your house, which is made of gypsum, which comes out of a hole in the ground somewhere.

And we are as much concerned about our environment as anyone. I've traveled around many places in the United States. I've seen a lot more of this country than most people who sit in offices, and so on. And I'm—it's not something I like to see, but we—we as a society require these minerals.

So what we seek are clear rules and regulations, even enforcement. And I'm only reinforcing what others have said, but I think the point is that, if that doesn't appear to be the case, then the shareholders are going to say, well—and quite rightly—"You should go and spend your exploration dollars elsewhere."

But for the moment, I believe that we can—that this is the place we're going to be for—for the next—well, certainly with the money that we've already raised. Thank you very much.

Mr. POMBO. Thank you.

[The prepared statement of Mr. Taylor follows:]

**Statement of Anthony P. Taylor, President/CEO, Millennium Mining Corp.,
Reno, Nevada**

I was educated in the United Kingdom with a B.Sc. and Ph.D. degrees from the Universities of Durham and Manchester, respectively, and have been a member of the Society of Economic Geologists for over 25 years. My professional career as an Exploration Geologist, mostly for major international mining companies, encompasses a variety of commodities in many different geological hosts on four continents and many countries including lead-zinc in Europe; nickel in Australia; platinum, copper and zinc in South Africa; gold-silver-copper-zinc-diamonds in the Americas.

I have lived in Nevada for most of the last 25 years and participated in exploration and mining of gold here for much of that time. I currently serve on the board of Hecla Mining Company, listed on the New York Stock Exchange.

I turned to the junior mining sector in 1996 with the demise of exploration within the major international corporations with a long-harbored wish to develop my own exploration company. After a five-year struggle, in a very tough financial market with a few devoted local investors, our private Nevada company, Millennium Mining Corporation, succeeded in attracting the attention of the investment community in Toronto who engineered a reverse take-over of a public vehicle, Gold Summit Corporation, while raising \$C1.6 million.

We choose to concentrate our efforts to explore for high-grade gold vein systems in Nevada because of:

- 1) The almost unlimited potential for discovery of a new generation of underground mines; and
- 2) The political stability, excellent infrastructure and the efficient, productive workforce available in the United States.

The mines we hope to discover will succeed the large open-pit gold operations that are the economic backbone of rural Nevada. With the inexorable decline in production from the world's largest gold-producing mines in South Africa, Nevada has the geological potential to largely supplant this coming shortfall.

There are, of course, other important gold-producing countries in the world but many carry unacceptable political risk and less certainty of mineral tenure. Many do, however, have a less-tangled regulatory web and hold out a welcoming hand to the mining industry.

I have long espoused the dictum that, in the mining industry "the sum of all difficulties is equal." So the balance, for us, goes to Nevada.

Having raised money in Canada to explore in Nevada with the argument that the regulatory labyrinth can be negotiated we applied to the appropriate Federal agency for a drilling permit to start our exploratory work. They responded in a responsible, helpful and efficient manner.

But we are delayed by misunderstandings between two federally funded agencies, one of which is operated by the State of Nevada together with completion of a survey of any bats that might live in nearby old mine workings. The concern, on one hand, is to preserve an old mining artifact, a Stamp Mill (ca 1906); on the other hand the possibility that an endangered species chose an adit as home.

Miners are responsible people who produce materials that are essential to mankind. They are not a luxury, unless we return to live in caves and hunt for food on foot with bows and arrows. We seek clear regulatory pathways to produce minerals in an environmentally responsible manner. I trust your Committee will work to help untangle the "Gordian Knot" of legislation and rule making that is slowly suffocating the mining industry in America.

Mr. POMBO. Mr. Gibbons?

Mr. GIBBONS. Thank you very much, Mr. Chairman.

And, Dr. Taylor, let me say that if the geological exploration industry fails you, you too can become a member of Congress.

Gentlemen, thank you very much for your time here today and the testimony you've presented to us. And I would like to begin with Mr. Fields, and to a long-standing friend out there who has worked hard in this industry, I thank you very much for what you've done to promote the industry in the State of Nevada.

Oftentimes we talk about permits as if they're the kind of permit that you go down to your County office to build a house, to improve your driveway or to add a room onto your home, and you put your money down and show them your plans and get your little permit and go home and start working.

But that's not the case in mining, is it, Mr. Fields? There is much more involved in the permitting process than that. And could you help us by understanding—or telling us for our understanding, the number, the types of permits that a mine must go through and the process that it must go through to get a permit, and how much you understand that process costs a mining company to complete?

Mr. FIELDS. Thank you, Congressman. And when I was with the State of Nevada, we used to track, as the Division of Minerals now tracks, the number of permits that are required in order to conduct exploration or mining in Nevada. And if you were working on public lands, I seem to recall that the number is somewhere in the high 20s or low 30s, in terms of the numbers of permits. These range everywhere from a permit from the fire marshal to—to own and store explosives that are used in the mining process, to the very substantial permits that you must obtain from the State and Federal Government for the opportunity to mine.

Most mining operations in the State of Nevada, by virtue of the fact that 90 percent of the land is somehow owned or managed by the Federal Government, require a NEPA process, that's the National Environmental Policy Act, and that requires scoping. This naturally requires public comment along the way. But more importantly, it requires a third-party consultant in most cases to do the work, to develop an Environmental Impact Statement, which will lead to a plan of operation, that is the permit that's approved finally by the Bureau of Land Management. This can cost in the millions of dollars, 6 million is not unusual for a major mining operation, it could be much more than that.

But more importantly is the time that we've been discussing, potentially years. A major mining operation taking five years to obtain all of the necessary permits to operate can be a huge disincentive.

So the quick answer to your question, the numbers are in probably the 30s, and the costs are in the millions of dollars for major undertakings.

Mr. GIBBONS. Mr. Chavis—I guess we lost the mike.

Mr. Chavis, I've had the pleasure to inspect your company's operations in South America, South Africa and Nevada, and I've noticed there that the responsibility of your company has been overwhelming to the environmental issues that go on with a mine. In fact, in areas that I would have anticipated you to be lax in, you were strong in, across the board. You met the IOC 10,004 standards in areas which are an international standard for environmental mines.

Do you have—does your company have a standard operating policy for every mine, no matter where it's located, when it comes to environmental issues, safety issues, et cetera?

Mr. CHAVIS. Many years ago, Congressman, we embarked on an undertaking to determine just how we were going to apply our standards in countries where we operate. In many countries that we go into, there are very few regulations, if any, and one of the things that we have to do is build environmental regulations as we go in.

What we've kind of done is we've taken the U.S. standards, the U.S. environmental standards—leave NEPA here, we try to leave NEPA back here in the United States where it belongs. And we take the other rules and regulations, the air quality and the water and the other regs that we fall under, and we apply those same standards, or as closely as possible, we adhere to those standards.

Mr. GIBBONS. Mr. Chairman, if you will indulge me one final question, because of the value of these witnesses here—and I apolo-

gize to Dr. Taylor, because I wanted to ask a question about the Millsite Opinion, but I realize Dr. Taylor is in exploration, but if he can answer this, that would be great. But I would sure like, also, Mr. Chavis to answer this.

What effect has the Leshy Millsite Opinion had on both exploration and operation from a company's standpoint?

Mr. CHAVIS. Well, quite frankly, Congressman, I—I hesitate to get in, too deeply into another company's, you know, area, but the Millsite Opinion has been used to derail operation, an operation in another state after they had gone through the extensive permitting for the property.

Now in more particular with our operation, our—we have, of course, an appeal that has been filed before the International Board of Land—Interior Board of Land Appeals. Part of that appeal is now based on the Leshy Opinion of the millsite ratios that are out there. And quite frankly, the Leshy Opinion gives that appeal some feet that it didn't have before. We feel that the Leshy Opinion is adverse to the law.

We're sitting on pins and needles right now, to be quite frank with you. It's been a little over two years since the appeal was filed. The IBLA has a rule of thumb it takes somewhere between two and three years before they hear a case. It's right there at that window right now, so—so we're a little nervous. This is our biggest operation in the world that we are talking about, in our company, that—that is under this appeal, so it will have a tremendous effect if that appeal comes in—if they give it any weight in the decision, which I hope they don't.

Mr. GIBBONS. Dr. Taylor, do you have an opinion?

Mr. TAYLOR. Just a comment that I think any change in what's perceived to be the rules and regulations are adverse when it comes to raising money. Investors don't like to hear about changes in rules and regulations.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. POMBO. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I again, commend the members of the panel for their testimony.

I just want to ask Mr. Fields, as the Chairman of the—of the Nevada Mining Association, do you sense a consistency among the 20 major mining companies here in the State of Nevada in terms of their good-faith effort in complying with the environmental standards, both federally as well as with the State government?

In other words, you know, they're all right there and, I mean, I don't want to be pointing fingers to say the worst abusers versus the most environmentally conscious company, but I just wanted to ask, you might have a better opinion on this, obviously. Among the 20 major mining companies, do you sense that they're about an even keel in complying or making very sincere efforts in complying with environmental standards, et cetera?

Mr. FIELDS. Thank you, Congressman. I'm not exactly sure. As I look around my Board of Directors, I think we've got about 15, what I would consider, major mining companies. As Allen Coyner suggested, it sort of depends on where you draw the line between major, middle and small.

One of the functions of the Nevada Mining Association is to provide a venue that leads to the consistency that you're asking about. Through our committee structure, we have a variety of standing committees, one of which is the environmental committee, a subsection of environment has been reclamation, water, air. These are all part of the environmental committee.

And what—what that committee does is it meets on a very regular basis, at least monthly, in our offices here in Reno, or in other offices out in Elko or Winnemucca, mining communities, and it's to work on issues that are of common interest to all of these companies. And it's also to exchange ideas on how Company A is dealing with a situation that perhaps Company B has not had yet to deal with.

So I think through that process, my answer to your question is, yes, they are all striving very well to—to meet not only the letter of the law, but to go beyond in some areas and through innovation they advance the field, for example, of reclamation. So I think we've got a very strong situation here in Nevada.

Mr. FALEOMAVAEGA. We've kicked around several major issues that seem to affect the operations of a mining issue, not only here in Nevada, but nationally. And what I would term respectfully to Mr. Chavis and Dr. Taylor, that you're the farmers out there, this is no economic theorist out there, whether it's going to be a bust or a boom for this major industry.

And I wanted to ask both of you, if you were to list a sense of priorities—because you're right down there in the forefront—what major issue or the highest priority that you can serve to accomplish and address now and not wait another two or three years—maybe my good friend Mr. Gibbons can propose a bill that might be a partial answer. But if you were to really say one, two, three, let—I'll just deal with the highest priority, what would you consider to be the major obstacle that Congress should address now if we are really serious about saving the mining industry, not only here in the State of Nevada, but nationally? What should we address?

Mr. TAYLOR. That's a—I'm not probably the best qualified to answer that.

Mr. FALEOMAVAEGA. As a major explorer.

Mr. TAYLOR. As a major explorer?

Mr. FALEOMAVAEGA. Yeah. What do you consider the biggest problem that you've been faced with on that?

Mr. TAYLOR. I think in the—I think the—I think the permitting processes are—the agencies that oversee them, I see an awful lot of overlap. And this little example I gave you in the written testimony is a good example of something that we didn't anticipate at all. We applied for a permit to drill, and out of the woodwork comes a requirement that the state—this is—this is Forest Service land, regulated, along comes a requirement for, I believe a federally funded agency, the State Historic Preservation Society, to make sure that we don't drill into an old staff mill that's onsite.

And we then come across the situation where we have to do a bat survey and some more workings and added. We don't even know if there are any bats in there. But today we've had a bill for \$6,000 to—to do a bat survey. And we're—we're more than happy

to—to do that, and we don't want to—we don't want to endanger any more bats.

But the fact that these things have appeared out of the—out of the woodwork is—is disturbing, so I—I would say in general terms, that—and I get the impression, rightly or wrongly, that the various agencies don't quite know what the other one is doing or is supposed to be doing.

Mr. FALCOMA. Thank you. Mr. Chavis, just real quickly if I could ask you.

Mr. CHAVIS. Well, my company's biggest issue is the Millsite Opinion, but I want to be clear, I don't believe that that is the Congress' issue, an issue of the Congress. I believe that that issue was created by the Administration and by Interior, and Interior should clean it up. OK.

But now, back to your original question. With that aside, I think mining law reform needs to be number one on the agenda, mining law reform, whether or not there's going to be royalties, are you going to calculate them, etc. We're in favor of going forward with mining law reform. And I'm sure any of us in the industry would be there to support you and help you within that goal. Number two would be the removal of the patent moratorium.

Mr. FALCOMA. With my good friend from Nevada being a geologist, I am going to depend very much on his opinion and his expertise in this area.

And again, Mr. Chairman, thank you, and I want to thank these gentlemen for their testimony.

Mr. POMBO. Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. And thank you all for being here today, we appreciate that.

Let me just point out, Mr. Chavis, this is—the Millsite Opinion is an Interior problem, I agree with that, but it is my experience the head of EPA, the head of Interior, for them a good day is they don't get a headline. And so our job in Congress is to make sure they do the right thing. We'll give them the latitude of choosing the day they get the headline. But we see ourselves, I think—maybe we see ourselves as being in the position of pushing those decisions to see that they actually happen, and they happen in a relatively timely fashion.

Mr. Fields, you—you're aware, of course, we do a lot of trades or consolidations between the Federal Government, the States and occasionally, all too rare, we actually do a sell of Federal lands, although we have accumulated or identified 5 million acres of surplus BLM lands that we would hope could be sold some day.

But do I understand you as saying in your testimony that you would like to see the Federal Government or the Interior Department sell lands to mining companies instead of leasing lands for mining?

Mr. FIELDS. Yes, I—I think that's exactly the point of my testimony. Not only mining companies, but others that are in a position to do something that results in economic development that is of benefit to rural Nevada or rural Utah or rural, wherever we're talking about for the purposes of economic development.

It so happens that in an industry in which I'm very familiar, those are mines, and that is a big economic development issue in

Nevada. So, yes, mines could be purchasers, you know, giving fair value to the Federal Government, certainly, but...

Mr. CANNON. But also removing some of the headaches that go with it, well preserved in the laws that constrain appropriate use.

Mr. FIELDS. Exactly, exactly. It will be no less of a regulated industry under the proposal that I make. It's still subject to State, local requirements, as well as your Federal requirements for clean air, clean water, but remove a lot of that duplication.

Mr. CANNON. Well, I personally think that's a really good idea. Are you familiar with the APPLE project started by a Speaker of the House in the State of Utah, where he's looked at the western states, the public-land states versus the eastern states that don't have near the source of land, public lands, and evaluated from every perspective what percentage we spend on education. The "E" in APPLE stands for education, I don't know what the rest of it is, but I am sure that he spent a lot of time getting the acronym APPLE, about education.

But the amazing thing is that we spend a larger percentage, we spend a larger percent of our income, a larger percent of our State budgets, and we have overwhelmingly, across the board and across every state, which is different, each state is different from the others, but in the west we are generally spending more money per capita and less per student than in the east.

And the reason for that is because we have 90 percent, depending on the state—Utah is about two-thirds, here it's much higher than that—in land that's held by the Federal Government. In other words, most of the public—most of the land is public, and therefore not taxed. We're not even getting a fair shake on our payment in lieu of taxes with our counties.

The result of that is that Westerners—that includes California, it includes Alaska, it includes everybody or every state that has public lands—is paying a significantly disproportionate share to educate our kids whereas eastern states don't suffer the same problem.

And it seems to me, the only way you can solve that is by actually selling lands, subjecting them to private ownership and taxation. So I appreciate your testimony in that regard. It was thoughtful, well-presented, and made it very clear that we're not trying to take this land and rape it and put it in private hands. So I appreciate that testimony. Thank you. Thank you. Yield back to you, Mr. Chairman.

Mr. POMBO. Thank you. I too want to thank this panel for their testimony. It was very informative. I would like to start with Mr. Chavis, if I may.

One of the—it appears that one of the real problems that we have is the—is the uncertainty in going through the process. And what I'm hearing you say and others say is not that we want to roll back any of the laws that are in existence, we just want some certainty so we know what the rules are.

Mr. CHAVIS. That's correct, Mr. Chairman. We don't expect rules to be—laws to be rolled back. That's not really, that's not the way it's going to be. What we would like to see is, we would like to be able to start a permitting process and complete that process under the same set of rules. Just like a college catalog when you enter

on a college curriculum, we would like to have that same opportunity.

And I know it's part of the political system, the political world we live in, that when there's an election if we get a change at the top or in the middle, things change. But that is what we would like to see addressed, and I don't know just how to do that.

Mr. POMBO. Well, the only way that—that I see to do it is to follow-up on your suggestion, in that we have to reform our mining laws. And there has to be a set process that's in place, and if you are in a mine here, you are going to have to meet all of those rules and regulations. But going into it, you will at least know what you have to do in order to get there.

Mr. CHAVIS. That's correct.

Mr. POMBO. When you look at operating in Nevada versus a foreign country—

Mr. GIBBONS. California.

Mr. POMBO. Yeah, California. We're not there yet, Jim. We're working on it, though.

But when you look at operating in Nevada versus a foreign country, when you go into a foreign country, do you—do you basically know what the rules are going to be when you go in there, or do you have the same kind of process in place that you have those uncertainties, or is that somewhat unique to the United States?

Mr. CHAVIS. We do what's called a Country Risk Assessment, along with other type—using other analytical tools. But the Country Risk Assessment will generally give us a feel for what environmental regs are or are not present. It also gives us a political assessment, to give us an idea as to whether the individual that's in power or the party that's in power, what their chances are two years down the road when the elections are scheduled and what the effect could be on mining.

We also send our environmental teams and our engineering teams and other technical disciplines in early, in the early stages, not—not immediately at exploration, but once they've got a sniff of a mineral being present, to give us an idea of the types of challenges that are involved there. That's all done, generally, in our Feasibility Study, which is done prior to really making the large leap, the large investment. And that same thing is actually done in the United States.

Mr. POMBO. Can you give—

Mr. FALEOMAVAEGA. Mr. Chairman?

Mr. POMBO. Yes.

Mr. FALEOMAVAEGA. In a foreign country it is called a contribution and donation, but in our country it's called extortion and bribery.

Mr. POMBO. That may be the case.

Mr. Taylor, or Dr. Taylor, when you look at doing exploration, and the changes that you have seen in the period of time that you've been in the business, how much better are you today at being able to determine where a mineral is and the extent of that find, versus 40 years ago? Has technology changed the business, or is it like in the old movies where you go out and smell a rock and you know whether it's there or not?

Mr. TAYLOR. Well, the technology has changed enormously in 40 years. Advances in geochemistry, geophysics and our understanding of geology have grown enormously. But there's still—there are still mines being found by guys out there with their boots on, whacking rocks. And so I—the technology is greatly improved and, of course, there are less chances of finding the surface outcropping material, the deposits. And so we're—we're forever—or we're—the future is the ability to see deeper and deeper down into the earth with more—less direct methods, such as—such as geophysics and our understanding of the geology.

Mr. POMBO. If, as you look at—at the future and the ability of the mining industry to expand in this State of Nevada using the technology that—that's available today, what is the role that the moratorium is playing right now?

Mr. TAYLOR. I'm sorry, which moratorium?

Mr. POMBO. The patent moratorium that we've been talking about.

Mr. TAYLOR. Oh. Well, as I said before, I think any—anything that is perceived to be a blockage in the permitting process of the mining end is going to deter people from investing in exploration. But I don't—I think—I think to some extent, some of these difficulties and the changes that—changing of law or the changing interpretation of laws and regulations, some are outweighed by the geological potential that you find in a state like Nevada. There aren't very many places on the planet where we can expect to find, continue to find good high-grade gold deposits. You know, those—those places are fixed and limited. So to some extent that, I would say, overrides the concerns. But at any rate—I'm not sure that really answered your question.

Mr. POMBO. Well, thank you. I want to thank the panel for their testimony. I want to thank Mr. Gibbons for hosting us here today and giving us the opportunity to come in.

One of the efforts that we have made on the Committee this year is to get out and do as many field hearings as we possibly can to give people the opportunity to testify before Congress, but also to give us a chance to hear from people that are actually on the ground and doing the work, and those who have to deal with, on a firsthand basis, with some of the bureaucracies. So I thank you all for being here.

I want to thank Mr. Faleomavaega for making the effort to come out and participate in the hearing, as well as Mr. Cannon. It is always extremely difficult to have members take time away from their districts and their other responsibilities to do the field hearings, so I appreciate both of you making the effort to be here.

If there is no further business before the Committee, I am going to adjourn, and again thank the panel for their testimony.

I just wanted—again, to the members of our audience who may wish to offer written testimony to appear in the record, I will hold the hearing record open for 10 days to give everybody a chance to submit those to the House Resources Committee, and that will be included as part of the record. Thank you.

[Whereupon, the Subcommittee was adjourned.]